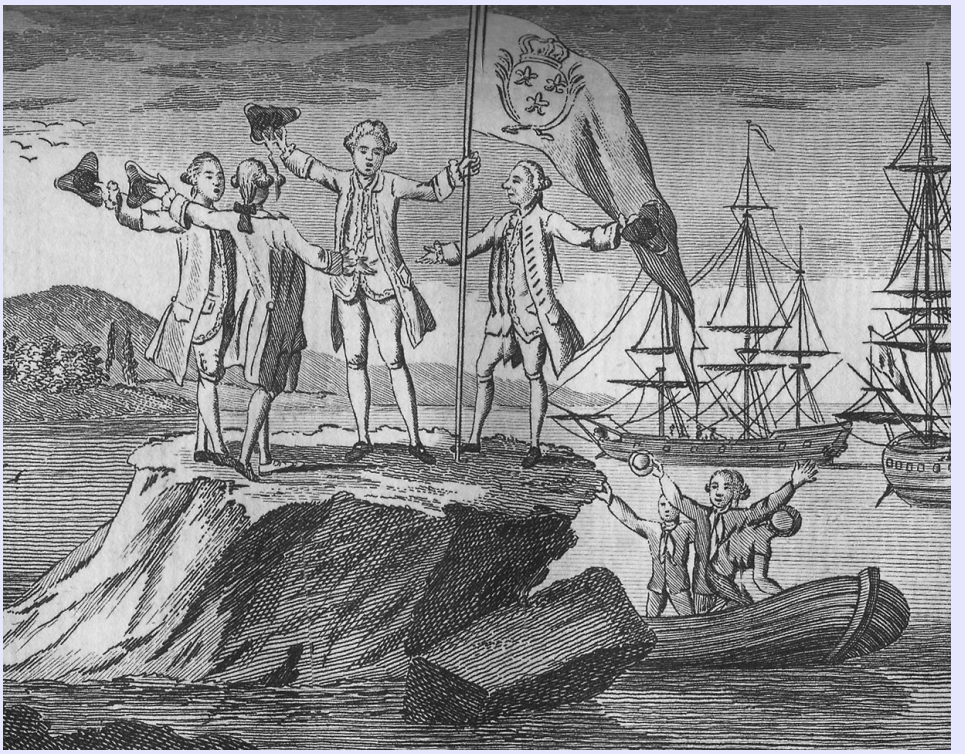
Falklands Wars: 1700 to 1850

A concise narrative history

Roger Lorton



Dedicated to 9 generations of Falkland Islanders

Second Edition 2022

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Front Cover: *"Monsieur Bougainville Hoisting the French Colours on a Small Rock Near Cape Forward in the Streights of Magellan."*
From 'A Historical Account of All the Voyages Round the World, Performed by English Navigators...' David Henry (London, 1773)

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Hyperlinks are employed within this book.
The full research can be found – https://falklandstimeline.wordpress.com/
Relevant charts can be found – https://falklandstimeline.wordpress.com/charts/
A Spanish language version of this book (in development) can be found – https://falklandstimeline.files.wordpress.com/2021/09/guerra-de-las-falklands-1700-1850.pdf

Author's Preface

It was a newspaper article. Which newspaper and which article are now long forgotten, but the year was 2009 and what attracted my attention was a claim by Argentina being presented at the United Nations. A claim to the Falkland Islands. Nonplussed, I recalled that in 1982 I had cheered on British troops driving the invading Argentines from those islands. British islands. Argentina had clearly chosen trial by combat in 1982, and Argentina had lost. How then had it come to pass that, 27 years after that conflict, Argentina was still arguing?

It dawned on me that back in 1982 I had not really understood the background to the invasion. That I knew almost nothing about the history of the Falkland Islands. Retired, and with time on my hands, I resolved to rectify this lack of knowledge and somehow a decade slipped by. At nigh on a million words, the result of my research is unpublishable in the traditional sense. The internet, however, offers wonderful opportunities for large works, and so I posted my research there. This concise work represents a challenge that I set myself. To find a way to compress my research into a book that anyone could pick up without injury. It quickly became obvious that the only way was to identify the core issues, all of which were contained within in a period of history covering a century and a half. Even then, 150 years squeezed into less than 75,000 words has proven to be demanding, requiring that much of the supporting evidence be set aside. That evidence remains available on the internet (hyperlink on page 4 above) and I encourage readers to visit the site. Many links to original documents can be found there together with a fully bibliography. Those that wish to dive into the detail are welcome to do so. This work employs broader strokes.

I must express my gratitude to all those archivists, preservers, cataloguers, authors, cartographers, real historians and fellow researchers whose tracks I have followed. Most importantly, those that gave advice, translations and succour along the way – Peter Pepper, Dr. Graham Pascoe, Fabian Turcato, Stephen Potts, Anthony 'Taff' Davies, Gavin Short, Mike Summers, Justin Kuntz, Andrea Hazzard, David Foot, and David Barrow.

Apologies to my wife, Nattagan, and all my family and friends who, over the years, I have bored to tears.

> *"... about nine of the clocke in the morning, wee descried land, ... It hath great Rivers of fresh waters; for the out-shoot of them colours the Sea ... The Land, for that it was discovered in the Reigne of Queene Elizabeth, my Sovereigne Lady and Mistris, and a Mayden Queene, and at my cost and adventure, in a perpetual memory of her chastitie, and remembrance of my endevours, I gave it the name of Hawkins Maiden land ... the Westernmost part lyeth some threescore leagues from the neerest Land of America."* [1]

1 *The Observations of Sir Richard Hawkins in his Voyage into the South Sea* R. Hawkins 1622

Second Edition Preface

The first edition of this work was designed to be a hardback book and was presented as such to a number of publishers in early 2021. Rejected as unlikely to attract enough interest to make publication profitable. Disappointing, but understandable.

Fearing that the work would never be read, I posted it online anyway and crossed my fingers. That was two years ago. During that time, this work has been downloaded in excess of 180,000 times. Remaining unread is no longer a worry.

Then in 2021, while working on a Spanish language version, I recognised that despite my earlier best efforts, and without the advantage of professional proofreaders, some typos and errors had crept in. A second edition seemed to be an appropriate way of dealing with those; while also allowing for the addition of a few more maps, images and citations.

I hope that this work continues to be downloaded. Accurate history is important. Argentina has, for far too long, been allowed to make the running with their distortions of the past, where, as with many things, the devil is in the detail. If this work has a fault, it is its size. A concise work. Its parent runs to a million words over fifteen Papers[2] and is daunting. My purpose with this book was to provide something readable. I hope those that decide to tackle it, enjoy the experience.

Roger Lorton

2022

2 See page 4

Introduction

Life in the Falkland Islands should be pleasant. A territory of some 4,700 square miles, the archipelago is about half the size of Wales and with terrain similar to large areas of Scotland. Hilly, boggy, windswept, cool, wet. In the 1840s when colonization of that distant land was first contemplated Scots, it was suggested, would make good settlers. They being familiar with both climate and topography. A land of farms, fishing and peat fires. A world apart, without the bustle of cities; no great pollution, no choked streets, no grime. During the 1840s the population grew to a few hundred, 180 years later it remains just a few thousand. Little more than a large village. A British village. The first, serious, challenge to this status came in 1945 when Argentina lodged a reservation on joining the United Nations. A claim that the UK possessed part of its territory. An area stolen. Usurped. That protest also revealed something previously hidden. Rarely remarked upon by the press. A history of petty obstruction, meddling, and intrusion by Argentina. A century of pin pricks. Nine generations of Islanders subjected to constant pressure by a covetous nation three hundred miles from its coasts. Then avaricious Argentina went as far as war in 1982. A territory of 3,000 Islanders invaded by a nation of 40 million. Near 1,000 young men, and women, died in a conflict that lasted a mere 74 days. Why? What motivates Argentine covetousness? More than a third of Argentina's land area is Patagonia. A territory colonized from Buenos Aires in the 1860s. Seized from an indigenous people but unused, with a population today of around 2 million spread over 400,000 square miles. A vast emptiness. So, why does Argentina want more land it has little use for? History holds the key. Bookshops have tomes aplenty about that 74-day war in 1982; the diplomatic build-up, the tactics, the heroes, the aftermath. This is not one of those books. War is contention between two States; a situation where one prosecutes its right, real or imagined, by force. On this basis, the 1982 Falklands War was not the first Falklands conflict.

Marx wrote that "*History repeats itself, first as tragedy, second as farce*." With the Falklands, Marx may have had it the wrong way around. Too many died for a lie in 1982 for it not to be a tragedy. No-one died in 1770, although that farce came close to starting a full-scale war between Britain and Spain. Ships commissioned, troops raised. Diplomacy succeeded in 1771. It failed in 1982.

The history of Europe in the Falkland Islands is long; beginning with a disputed first sighting by an Englishman in 1592. The foundations of Argentina's complaints can be discovered in the period 1700 to 1850. Considering that century and a half, this book aims to answer the 1982 question, Why?

"Men make history and not the other way around" [3]

3 Harry S. Truman

1

Discovery

"The sun shines for me as for others and I would like to see the clause in Adam's testament which excludes me from a share in the world." [4]

A European first saw the Falkland Islands in the 16th century. Who and when is much disputed. Not that a distant sighting is significant in questions of sovereignty. Settlement considered as being far more relevant. Spain was a notable exception to this view with its claim over the Americas, founded upon the discovery of a single island in 1492. In Europe, Spain stood alone in this belief but it was unchallenged for 250 years.

India was the source of valuable spices and as the world was a globe, there had to be two ways to get to those spices. Columbus was looking for the western route when he came across that island in 1492. Then he found more islands. Columbus got back in March 1493 with the word that new land lay between Europe and India. Information that reached Rome two months later. Pope Alexander VI, a Valencian, born Roderic Llançol i de Borja then ruled Vatican City. On May 3rd, this Spanish Pope issued a Papal Bull confirming Spanish sovereignty over all the new lands. Not that the Pope had the least idea what was out there. Portugal complained, leading to another Bull on the 4th and further edicts followed. None satisfied Portugal, which viewed the grants to Spain as breaching an arangement struck between the two nations in 1473. While the Catholic Church was the dominant religious body in Europe, it was not the source of what then passed as international law. So, and much to Alexander's annoyance, Spain and Portugal met to reconsider their zones of influence over the Atlantic Ocean. In a small village called Tordesillas they reached an accord on June 7th, 1494. A line that stretched from pole to pole, located 370 leagues (1,110 miles or 1,786 km) to the west of the Cape Verde Islands. Spain would control whatever lay to the west of that line; Portugal to the east. A world divided, but treaties bind only those that sign them, nobody else and there is no evidence that England knew of the Tordesillas deal. If anything was known, there was no sign of constraint. Ships out of Bristol had sailed west for a decade before Columbus found the Indies. Where they went and what they found is now difficult to determine.

> *"The people of Bristol have, for the last seven years, sent out every year two, three, or four light ships, in search of the island of Brazil and the seven cities,.."*[5]

Brazil and the seven cities were a rumour. A mythical place believed to exist in the North Atlantic to the west of the British Isles. Not that chunk of South America discovered by Pedro Álvares Cabral in 1500. Something else. A lure to sail west.

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4 King François I of France in 1541

5 *Don Pedro de Ayala to Ferdinand and Isabella, King and Queen of Spain,* 25 July 1498

The continent that Columbus had found the edge of when seeking India would become known as America, but to Spain, it was always the Indies. History can be very unfair. In 1501, Amerigo Vespucci was an Italian observer on a Portuguese expedition led by Captain-General Gonçalo Coelho. Perhaps Americas was just easier to pronounce than Coelhos. As for the Falklands, Columbus did not see them, nor the men of Bristol. Nor, as is sometimes asserted, did Vespucci. A letter, allegedly written by him, suggested that on one of his voyages, the Italian sailed as far south as latitude 52° S. Authenticity is much disputed. It was a fake. Those that believe otherwise fail to remember that, from 1508, Vespucci worked at the Casa de Contratación (House of Trade) in Seville. Spain's school for navigators and where was kept the *Padron Real*, or master chart. A map of the world based on eye-witness accounts given on oath, rather than myth or rumour. If Vespucci had sighted the Falklands archipelago before 1508, it seems likely that he would have had them placed on the chart. Or told his nephew, who took over responsibility for the *Padron Real*. [6]

So, if Vespucci did not discover the Falklands, who did? There is general acceptance that Englishmen John Davis saw the archipelago on August 14th, 1592, followed by Richard Hawkins on February 2nd, 1594. Davis was busy trying to survive, but Hawkins claimed what he saw for England and named the islands for the virgin Queen – Elizabeth I – as *Hawkins' Maidenland*. On his return to England, Davis was accused of desertion and held in disgrace. Unacknowledged, his journal remained unpublished until the early 1800s. Discovery was therefore attributed to Hawkins. Outlying islands to the north-west of the main archipelago, now known as the Jasons, were sighted, and more accurately plotted, by a Dutch explorer, Sebald de Weert (de Weerdt) on January 24th, 1600. For a while, they bore his name. All three adventurers had one thing in common. It took a storm to get them far enough from the coast of South America to see the islands. The archipelago lies some 255 nautical miles (472 km) from South America and early mariners hugged the coasts as they sailed south. Reassured by the sight of land. After 1600, the evidence becomes tangible. English privateers anchored there in 1681 (Bartolomew Sharpe) and 1684 (William Dampier, John Cook, and Ambrose Cowley). A first confirmed landing would have to wait, however, until English mariner John Strong arrived in *Welfare* in January 1690. Strong remained for five days, exploring and recording what he saw. Discovering the sound that divides the two main islands, Strong named it after his sponsor Lord Falkland.

> *"Munday from twelve y^e^ twenty sixth day to eight in y^e^ morning this day that we see y^e^ Land ... It is a large Land and lyeth E and W nearest there is severall keys that lye along the Shoar We sent our boat on Shoar to one of them and they brought on board abundance of Pengwins and other fowl and seals and at three in y^e^ afternoon we stood down along shoar and steer'd E B(y) N and att eight at night we see y^e^ Land run to ye Eastward as farr as we could discern. Latt –51: 03"* [7]

6 https://falklandstimeline.files.wordpress.com/2019/07/1523-vespucci-detail.jpg

7 *Journal* of John Strong in the British Library – *Sloane MS 3295*

Could there have been a sighting between Vespucci and Davis? There is no unequivocal evidence, but hypotheses, theories, and outlandish claims abound. One theory has it that the Portuguese knew of a strait some years before Magellan sailed from Spain in 1519. Sixteenth-century chart makers used whatever sources they had; with a little imagination thrown in for good luck. Some managed to correctly portray South America as a cone as early as 1515. A whole century before Dutchman William Schouten discovered Cape Horn in 1619. A globular world, but how big was it? Discrepancies of both latitude and longitude were regular features of early charts. Longitude the more-so as it was hardly calculable before 1773. So the cone shape was correct, but its southern tip was always shown too far north. Below that lay conjecture. Theory had it that a weight at the South Pole was necessary to balance that of the northern landmass. A counterweight continent. Never seen, but assumed. Imagination then presented a cone and a strait. Not a fact, a fantasy. Enough, however, to get a Portuguese navigator, Ferdinand Magellan, funded.

1515 Globe by Johannes Schöner

Magellan's story is well known. Unable to persuade his own king to fund an expedition, he went to Spain where he persuaded Carlos I to support him. However, expeditions to the unknown parts of the Americas presented not just a challenge but a risk. Expensive to outfit, any voyage of discovery had, foremost, to be a business arrangement. Investors needed to see potential profits. A shorter route to the Spice Islands of the Pacific would make money. Nutmeg, mace, and cloves from the Maluku Islands (Moluccas) were much in demand. A big gamble but a single ship with its hold full of spices would recoup the whole voyage with a large return.

Magellan sailed from Spain with five ships in September 1519, reaching the coast of Brazil three months later. Turning south, his ships hugged the coastline until a little below latitude 47º S they found a group of half a dozen inshore islands populated by penguins. Something new. With no name for them, they called both the birds and the islands, Patos (ducks). One captain added another name, Leones, after the sea-lions. Sailing on, the expedition stopped off to recuperate and repair at Puerto San Julian, before reaching the mouth of a saltwater strait at 53º S. Far further south than expected. *San Antonio* deserted; another ship was lost, but Magellan made it through to the Pacific where he found fame and misfortune. Only 18 survivors returned to Spain's Sanlúcar de Barrameda on September 6th, 1522, in *Victoria*. A first circumnavigation of the globe. Magellan did not survive. Nor his pilot-cosmologer, Andrés de San Martín, some of whose charts fell into Portuguese hands. Among those that did make it was Antonio Pigafetta, an Italian observer. After such an ordeal, Pigafetta's memory was flawed. He recalled the Patos Islands as an inshore pair.[8] The only islands to the east of Patagonia that he did recollect. Nothing in his accounts of any large offshore islands to the north-east of the Strait's eastern mouth. None of the other survivors mentioned any such islands either. Contrary to some modern theories, Magellan did not discover the Falklands.

There was, however, another group of survivors. Those who had deserted in *San Antonio*. Led by Estêvão Gomes, a Portuguese pilot, and cartographer, these reached Spain in May 1521. It was a legal rule that all Spain's navigators carried copies of the *Padron Real* and, on returning, updated the Casa de Contratacion. Gomes was no exception. Debriefed in Seville; then imprisoned for desertion.

A single chart, dated to 1522 by a French amateur researcher in 1935, reveals the eastern coast of the south cone of South America as it must have seemed to Gomes.[9] Six islets of the Patos, unnamed, are shown situated to the north of Puerto San Julian. Then there is a gap and the northern coast of an island or landmass situated to the east of the southern extremity of South America. One modern hypothesis has it that this represents the Falklands archipelago. If so, where is the strait? This map postdates the return of Gomes but predates that of the 18 loyal survivors. Its informant, therefore, has to be Gomes, who knew that there was a strait having sailed part-way through it. Straits have two sides. In informing the cartographer, it seems unlikely that Gomes would have forgotten Tierra del Fuego. The southern side of the strait. It is possible that the cartographer was Gomes. What appears on this 1522 chart is more likely to be the mispositioned Land of Fire than anywhere else. Another 1522 world map revealed no islands off the South American coast. Just a duck.[10]

8 https://falklandstimeline.files.wordpress.com/2019/03/1522-pigafetta-italian-south-is-at-top.png
9 https://falklandstimeline.files.wordpress.com/2019/07/1522-detail.jpg
10 https://falklandstimeline.files.wordpress.com/2019/03/1522-lorenz-fries-strassburg.jpg

Following the return of the loyal survivors, an inquiry at Valladolid examined what had happened. During those hearings, there was no mention of islands 300 miles to the northeast of the strait. That inquiry exonerated Gomes though, allowing him to return to work at the Casa de Contratacion. As with Vespucci before him, it seems probable that if Gomes had seen an archipelago, he would have mentioned it. He had, however, seen the Patos. Pigafetta spoke of a pair, Gomes, a trained cartographer, would have reported with more accuracy. Cartography confused by contradictory reports resulted in some charts after 1526 depicting two groups of inshore islands. A pair named Patos. Six or more identified as the Sanson Islands. Biblical Sanson (Samson) was a big man, and it was from the Magellan expedition that the first stories of Patagonian giants came. There may be another source for the name, however. San Anton is the patron saint of lost items, but was also the name of the ship that Gomes returned in. *San Anton* to Sanson is not a big leap. Some modern theorists suggest that the Sanson group represents the Falklands. Too far north and too close to the mainland coast, this would seem unlikely.

So, if Magellan had not seen the Falklands, nor Gomes, what other pre-1592 options are there? The expedition that followed Magellan's in 1515 is little known but equally as ill-fated. Under the command of Garcia Jofre de Loaisa (Loaysa its survivors completed a second circumnavigation. It took them a decade. As before, those that did return were debriefed at Seville. Not one of them mentioned islands 300 miles off the strait. There is nothing to suggest that Alcazaba saw them in 1534; nor Mendoza in 1536; nor did Alonso de Camargo in 1540, although one of his ships may have sailed farther south from the strait's eastern mouth than any ship before it. There are theories that one ship over-wintered in the archipelago, but what little evidence there is suggests otherwise. Nor is there a report of Juan Fernández Ladrillero, passing through the strait from west to east, seeing anything in 1558. That accounts for all the known Spanish expeditions. Other? An English expedition arrived at Puerto San Julian in 1578, but Francis Drake did not report an archipelago. Next came the Cavendish expedition of 1591. The one that Davis was alleged to have deserted. Theories, hypotheses, and fantasies there are, but no evidence. Imaginative cartographers like André Thevet, with his cedar trees on barren islets, were eccentric, not proof.[11]

It is worth emphasising that Spain never claimed that any of its early explorers saw the archipelago. Not in the 16th century. Not in the 17th century. So, if there was an earlier sighting of the Falklands archipelago than Davis that discoverer is unknown; the date of discovery is unknown; the expedition is unknown, and its country of origin is unknown.

> *"... while the explorer who is generally credited with a discovery may not have been the first to see land in that spot, the modern historian is bound to give credit only to those who have left more or less accurate records..."* [12]

11 https://falklandstimeline.files.wordpress.com/2018/09/thevet-c-1586.jpg
12 *The Antarctic Problem* E. W. Hunter-Christie 1951 p.29

2

Occupation

"... the legal basis of any colonization must reside in the priority of discovery, followed by the effective occupation of the territory that was not part of any other State. From the moment that Great Britain rejected the validity of papal bulls as a source of law (it) became a continuing threat to the Spanish colonial empire;..." [13]

John Strong's crew stepped ashore on some part of the archipelago on January 27th, 1690, but he was not the only visitor. William Dampier, privateer, circumnavigated the archipelago in 1696, the same year that a Dutch chart depicted three islands identified as *Ifles decouv. par Davis Anglois* (islands discovered by Englishman Davis).[14] French ships from the port of St. Malo also stopped off, pursuing a lucrative smuggling trade with Chile and Peru. Much to Madrid's annoyance. Jealous of its colonial trade, Spain considered those seas closed to all but its own ships. France was an ally, but its mariners were not welcome. A safe port with fresh water was, however, and French ships refreshed there. Jacques Gouin de Beauchêne on *Phelypeaux*, passed by in January 1701; Julien Éon de Carmen on *Saint-Pierre* in October 1705; *Maurepas* and *St. Louis*, in December 1706. Also Alain Porée on *Assumption*, in July 1708. English visitors included privateers Woodes Rogers, Edward Cooke, and Dampier, again, in December 1708. Rogers trying to chase down a French merchantman, *Notre-Dame-de-l'Assumption*, in January 1709. Madrid's policy of denying access to what it saw as a Spanish sea was under pressure.

> *"The Southern and Pacific Oceans are as free as the Atlantic; as free as air; common to the ships of all countries. No state has or can have an exclusive right to the navigation of those seas. And, therefore, if the Spaniard dares to assert such right, we will shew him that we dare deny it."* [15]

Conflict during the War of Spanish Succession 1701 to 1713 marred the early years of the 18th century for Europe. Complicated by alliances, the main protagonists on one side were Great Britain, the Dutch, the Holy Roman Empire and half of Spain. Opposing were France, Hungary, a few small principalities and the other half of Spain. When it came to negotiating peace, each of the combatants needed a separate treaty. That made for a lot of treaties, but one still reverberates today. The Anglo-Spanish Peace Treaty saw Spain cede Gibraltar to Britain; a loss that rankles still. Relevant to the Falklands, however, was an attempt to return a reunited Spain to the possessions that it had before 1700.

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13 *Malvinas: el conflicto Anglo-Espanol de 1770* Octavio Gil Munilla 1948 pp.4-5

14 https://falklandstimeline.files.wordpress.com/2019/02/1696-mappe-monde-dressc3a9-sur-les-observations-de-mrs.-de-lacademie-royale-des-sciences-et-quelques-autres-et-sur-les-memoires-les-plus-recens-nicolas-sanson-amsterdam.png

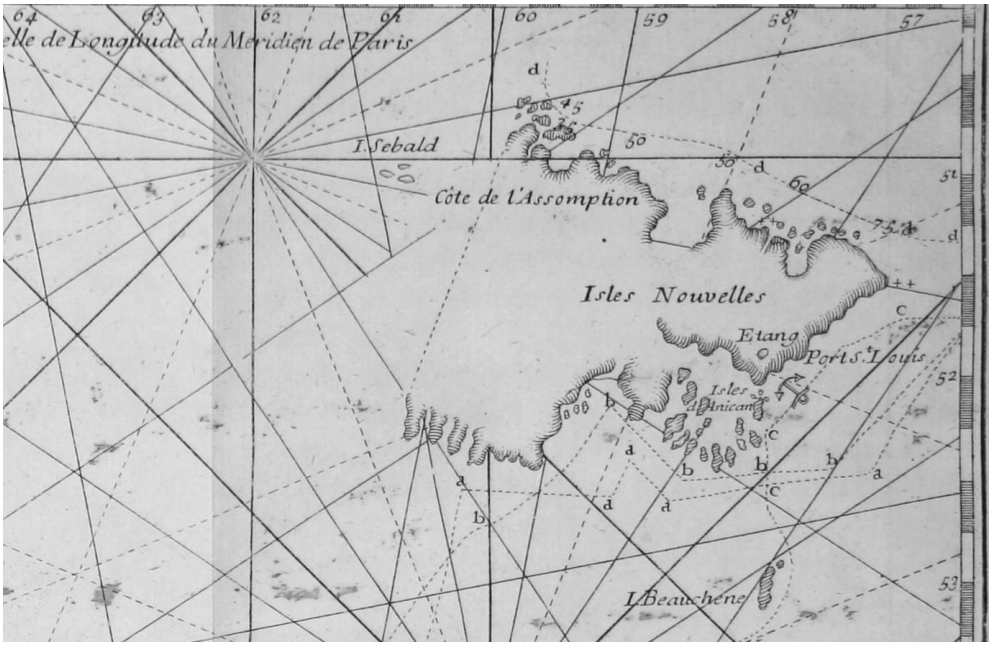
15 *Act of Parliament 9. Ann.c.22*

Spain was to regain its status in the Americas while France, Britain's old enemy, was to be kept out. Unforeseen at the time were problems of definition. To Spain, the West Indies were all its colonies in the Americas. To the British, the West Indies was the Caribbean. In article 8 it was stated – *"That there be a free use of navigation and commerce between the subjects of each kingdom, as it was heretofore, in time of peace, and before the declaration of this late war, in the reign of Charles the Second, of glorious memory, Catholic King of Spain, ... And whereas, among other conditions of the general peace, it is by common consent established as a chief and fundamental rule, that the exercise of navigation and commerce to the Spanish West Indies should remain in the same state it was in the time of the aforesaid King Charles the Second; that therefore this rule may hereafter be observed with inviolable faith, and in a manner never to be broken, .., it is especially agreed and concluded, that no licence; nor any permission at all; shall at any time be given, either to the French, or to any nation whatever, in any name, or under any pretence, directly or indirectly, to sail, to traffic in, or introduce negroes, goods, merchandizes, or any things whatsoever, into the dominions subject to the crown of Spain in America, ... And, that more strong and full precautions may be taken on all sides, as above-said, concerning the navigation and commerce to the West Indies, it is hereby further agreed and concluded, that neither the Catholic King, nor any of his heirs and successors whatsoever, shall sell, yield, pawn, transfer, or by any means, or under any name, alienate from them and the crown of Spain, to the French, or to any other nations whatever, any lands, dominions, or territories, or any part thereof, belonging to Spain in America. On the contrary, that the Spanish dominions in the West Indies may be preserved whole and entire, the Queen of Great Britain engages, that she will endeavour, and give assistance to the Spaniards, that the ancient limits of their dominions in the West Indies be restored, ..."*

After 12 years of war, Amédée-François Frézier, a Lieut.-Colonel in the French intelligence service, returned from Chile where he had been spying out Spanish defences. Back in Paris, Frézier published a book of his travels.[16] Included was a chart of the south cone of America and its islands. Prior to Frézier, maps of the South Atlantic generally depicted the Falklands archipelago as the strait identified by John Strong. Shown as square brackets, back to back –][

Frézier's chart, however, identified the archipelago as a large landmass, but incomplete. No western coast depicted. To the north-west were the Sebaldes (Jasons). To the south, Beauchene Island sighted in 1701, and the islets seen in 1705 (d'Anican Isles). In his book of 1716, Frézier named this landmass the *Isles Nouvelles* (New Islands). It was renamed again in December 1721 as *Belgia Austral* by Dutch explorer Jacob Roggewein. Neither name stuck. Then in 1722, French cartographer Guillaume Delisle, acknowledging the voyages of the men of St. Malo two decades before, called the group - '*Les Iles Malouines*.' Frézier's book caused no controversy. That only arose with the publication of another book in 1748.

16 *A Voyage to the South-Sea, And along the Coasts of Chili and Peru, In the Years 1712, 1713, and 1714, particularly describing the genius and constitution of the inhabitants, as well Indians as Spaniards: their customs and manners, their natural history, mines, commodities, traffick with Europe, &c* A. F. Frézier 1716. English translation 1717.



Carte Redvite by Amédée-François Frézier (detail) published 1717

Another European war, over Austrian succession, commenced in 1740. Once again, Spain and France were allied against a coalition that included Britain. With war declared, Commodore George Anson sailed out with a squadron of six Royal Navy ships and 1,955 men to hunt Spanish ships. He returned, four years later, with one ship, and 145 men. Not the disaster it would seem though, as the hold was full of Spanish gold. A notable wartime achievement, despite only four men actually dying in battle. The rest perished from scurvy; a disease resulting from a lack of vitamin C. Cured by fresh fruit and vegetables the problem was resupply in wartime with foreign ports often closed to the Royal Navy. Anson picked up on this in a book about his voyage. He perceived the need for friendly ports in strategic locations. An obvious solution being the creation of British ports in those critical areas. One proposal of Anson's was that a base be found near the Magellan Strait. Either to the west of it, or near the eastern mouth.

> *"… we have already the imperfect knowledge of two places, which might perhaps, on examination, prove extremely convenient for this purpose: One of them is Pepys's Island, in the latitude of 47° South, and laid down by Dr. Halley, about eighty leagues to the eastward of Cape Blanco, on the coast of Patagonia; the other is Falkland's Isles, in the latitude of 51° ½ lying nearly South of Pepys's Island."* [17]

17 *A Voyage Round the World in the years 1740-1-2-3-4, by George Anson Esq., Commander of a Squadron of his Majesty's Ships sent upon an Expedition to the South Seas. Compiled from Papers and other Materials of the Right Honourable George Lord Anson, and published under his Direction* G. Anson & R. Walter 1748

Pepys Island. A publishing error in a book recounting Ambrose Cowley's privateer adventures had created an island at latitude 41° S. In writing, Cowley had been referring to the Falklands at 51° S, but the publisher, William Hacke, got it wrong. Believing this to be a new discovery, Hacke named it Pepys Island on a 1699 chart. The result was a lot of wasted sailing time over the next 120 years. For Anson, both Pepys and the Falklands were likely locations but more information was needed about them. It was known that Hawkins had claimed something in that region but the only decent map was Frézier's 30-year-old chart. Anson, promoted to Admiral, drew his own chart, borrowing Frézier's depiction of the Isles Nouvelles, and writing 'Falkland Isle' across it. While Anson's reasoning was sound, publishing his analysis in a book was not such a great idea. The book was a hit, read eagerly in both Paris and Madrid. So it was that when Britain took up Anson's idea and prepared an expedition, Spain noticed.

Inquiries by Madrid's Minister, Ricardo Wall, in April 1749 came at an awkward moment. While Europe's War of Austrian Succession had stuttered to an inconclusive peace, attempts to negotiate an Anglo-Spanish commercial treaty were not going well. An expedition into areas that Spain considered its own, was not going to help. The first part of Britain's plan called for the reconnoitring of the Falklands/Pepys islands. That was to precede a voyage through the Strait and into South Sea. Once there, the Royal Navy was to water at Juan Fernandez before surveying the coast of Chile. To help the commercial talks, London offered to cancel the second part of the plan but Spain was not so easily placated. Wall demanded that Britain abandon its whole expedition, confusing it seems, the inshore Leones Islands (Patos/Sanson), with the offshore Falklands/Pepys.

> *"Carvajal ... affirmed they had been long since first discovered and inhabited by the Spaniards; who called them the Islands de Leones from the number of sea lions on their coasts and that in the office books there were ample descriptions of the dimensions, properties, etc."* [18]

Whichever island Minister Carvajal had in mind; no Spaniard inhabited the Falklands. In an attempt to save the treaty negotiation, Britain agreed to delay the expedition. A decision that helped the accord reached in 1750 Carvajal considered it a victory, but London had delayed, not cancelled. To ram home the point, London published an official map in 1753. British red lined the Falkland Islands with discovery attributed to Hawkins. Further complaints from Ambassador Wall were ignored.

Spanish Ministers were not the only ones to read Anson's book. An edition in French could have been found in the library of a young French officer, Louis-Antoine Bougainville. Another war in 1756 saw Bougainville posted to Canada. Defeat then returned him to France in 1761. Frustrated and intent upon some small revenge, Bougainville set about a plan to put Anson's ideas into effect. For France.

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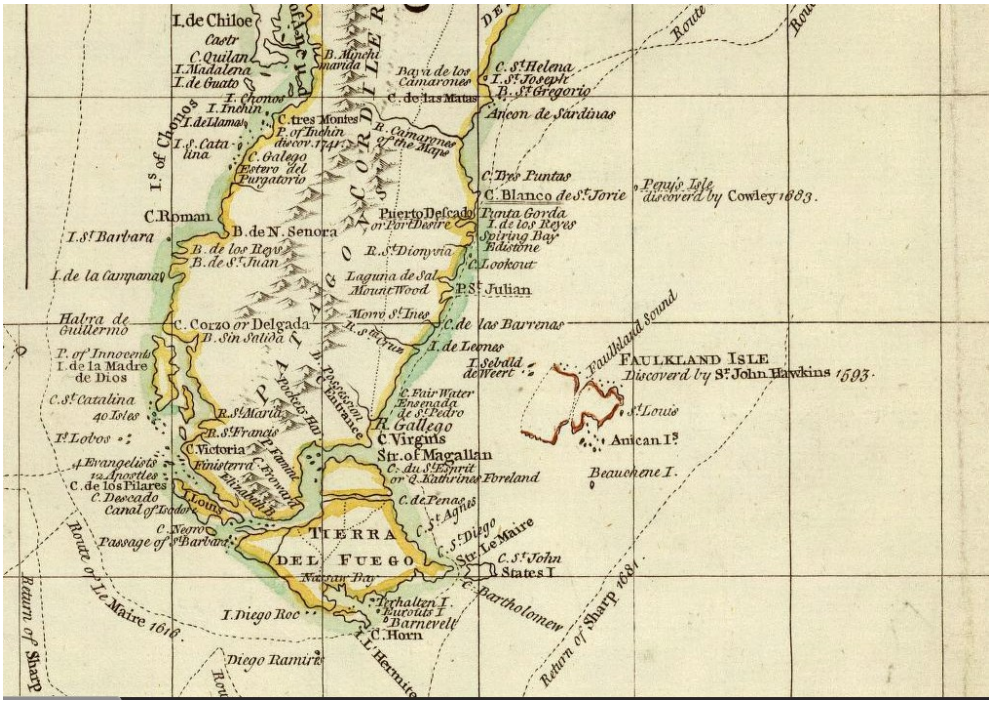
18 *Keene to Bedford* quoted in *Memoirs of the Kings of Spain of the House of Bourbon from the Accession of Philip the Fith to the Death of Charles the Third* William Coxe 1813



John Green of London 1753 (detail)

Bougainville

French losses in Canada were also much resented by another Frenchman, Étienne-François, Comte de Stainville, duc de Choiseul. As Minister for the Navy, Choiseul was the man who Bougainville sought out with his proposal to hijack Anson's idea. In February 1763, just a month before the Seven Years War came to an end, Bougainville gained an audience with the Minister. Bougainville's plan called for two armed frigates to go to the archipelago with 80 crew, 40 soldiers plus 20 Acadians, expelled from Canada by the British. Supplied for six months they would found a settlement. Choiseul was sufficiently impressed to pass the idea on to Minister for the Colonies, Jean Augustin Accaron, who loved it. His problem, however, was a lack of funds. French coffers were in a poor state and without the money to outfit such an expedition, it was unlikely to gain Royal approval. Bougainville's answer was to found the Compagnie de St. Malo. In this private concern, his uncle, Jean d'Arboulin; a cousin, Michel-Francois Bougainville de Nerville, and others, invested their money. The endeavour would be a business venture, albeit with official backing. Choiseul was not oblivious to Spain, but Bougainville argued that the Spanish had no claim as they had never inhabited the islands. Effective occupation was necessary to seal any claim and in support, he cited Vattel's 1758 Law of Nations. Reassured, Choiseul gave Bougainville France's blessing, confirmed by Louis XV in August 1763. At St. Malo, two ships, *Aigle* and *Sphinx*, were fitted out, crewed with experienced seamen and boarded by 54 willing settlers.

Of these, thirty-nine were hardy Acadians from Canada. Bougainville led the expedition into the North Atlantic on September 15th, 1763, with both ships arriving safely off Montevideo three months later. Spain's Governor was immediately suspicious and asked for Bougainville's instructions from Louis XV. These ambiguously referred to observations that French would make in the southern regions. No mention of any settlement. Unconvinced, Governor Don Joseph Joaquim de Viana wrote to inform Madrid before watching the French ships sail away on January 16th, 1764. Bougainville sighted the Falklands two weeks later, reaching the eastern extremity of the islands on February 3rd, 1764. This was the coast familiar to St. Malo ships half a century before, and where they knew fresh water could be found. Fifty-year-old descriptions proved less accurate regarding other details, however. Yes, there was fresh water, but not a tree anywhere. No timber.

> *"We were surprised, when we landed, to see that what we took for woods as we sailed along the coast was nothing but bushes of a tall rush, standing very close together. The bottom of the stalks being dried, got the colour of a dead leaf to the height of about five feet; and from thence springs a tuft of rushes, which crown this stalk; so that at a distance these stalks together have the appearance of a wood of middling height. … Nature offered no other subsistence for men than fish and … fowl."* [19]

After a brief search, Bougainville identified a suitable site deep within an extensive anchorage that he named Accaron Bay. Ashore, the settlers immediately set about the construction of a long-house with a barricade of turves for defence. Doing what they could with limited supplies. In new lands, marks and signs of possession, sovereignty, were important. Spain had raised iron crosses wherever it landed in the Americas while, in Canada, the French had erected poles displaying the arms of France. Timber was in short supply, however, so Bougainville opted for a small pyramid. On one side was an inscription identifying the expedition and listing the names of the settlers. Into the other faces he set medallions with the bust of the French King and the Arms of France. A small ceremony, on April 5th, 1764, announced, to the wildlife at least, the taking of formal possession of the Malouines in the name of Louis XV of France. The settlement named Port St. Louis while the birth of a boy, Francois, to Augustin Benoit and Francoise Terriot, was taken as a good omen. Leaving behind two pre-fabricated boats; both frigates departed a few days later. *Sphinx* bound for Guadalupe in the West Indies to trade, while *Aigle* sailed for Patagonia to collect much-needed timber.

Bougainville had stolen a march on his old enemy. However, unknown to the Frenchman, Britain was not so far behind. In London, a decision was taken in February 1764 to resurrect the Anson plan and on March 7th, the Secretary for the Admiralty directed that a ship be readied. As with the original plan, the project was multi-layered. First, there was to

19 *A Voyage Round the World performed by Order of His Most Christian Majesty in the Year 1766, 1767, 1768 & 1769* L. A. Bougainville (English translation) 1772

be a reconnaissance of Pepys and Falklands Isles. Then through Magellan's Strait and up the west coast of all the Americas to identify trading opportunities. Finally, a search for a north-west passage over Canada. Nothing, if not ambitious. A pair, *Dolphin* and *Tamar*, were under a single commander; John Byron. All preparations commenced in secrecy as this was to be a venture with both military and business objectives. Easier said than done, of course, and by May 1764, rumours had spread. North to the Scots and south to Madrid.

> *"., it is said, that they will proceed to North America, with proper artists on board, to take a general survey of the coasts, with the capes, head-lands, promontories, gulphs (sic), rivers, and every other thing that may relate to a perfect knowledge of that vast region, and its navigation,..."* [20]

> *"... the English were working to cover with plates of Copper the Dolfin warship and the Tamar chalupa [sic], that they had to leave together, hiding their true destiny, because some said it was the East Indies, and that Captain Byron, who was riding the Dolphin would take command of the ships of the King that they were in that part of the world ... and others were of opinion that these two casualties would go to North America."* [21]

In an attempt to throw off spies, and journalists, the Lords Commissioners of the Admiralty attempted subterfuge, commissioning Byron as '*Commander in Chief of His Majesty's Ships and Vessels employed & to be employed in the East Indies'*. This fooled no-one except the East India Company which requested that Byron take out its mail. Spain saw through the ploy almost immediately. After all, Byron had accompanied Anson and his experience was not in the Indian Ocean. Using the East Indies as a device made sense though, as ships, to catch the trade winds that took them east towards India, first sailed west towards Brazil. So when Byron set off in that direction, Britain's newspapers found no cause for comment. Their attention was instead directed towards Paris, where rumours of a new colony were circulating.

One week before Byron sailed, Bougainville had returned, jubilant, to St. Malo. A little premature as it turned out, as a fast horse was already racing towards Paris with a complaint. Spain's Chief Minister, Marquis Pablo Jerónimo de Grimaldi, had received a letter from Montevideo. Spain's messenger got to Paris first. On his arrival in the city, Bougainville sought an audience with Choiseul, only to hear that questions were being asked. He promptly submitted a full report of his voyage to the Minister with a request that King Louis adopt the claim. Attached, was a rough chart of the archipelago showing Bougainville's track around the northern coasts to Accaron Bay.[22] Once again Choiseul was reassured that Spain had no claim to uninhabited islands 300 leagues (900 miles) from Montevideo.

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20 *Aberdeen Press & Journal* May 14, 1764

21 *Gazeta de Madrid* June 5, 1764

22 https://falklandstimeline.files.wordpress.com/2019/02/1765-plans-ou-cartes-des-isles-malouinnes-et-du-destroit-de-magelland-by-m.-bouguinville.jpeg

Bougainville then went further, proposing that they send another 50 Acadian settlers to reinforce the settlement. Choiseul, however, pointed to reports of English ships due to leave for the South Atlantic.

> *"There is every reason to believe that they will look for Pepys Island and the Falkland Islands, our Malouines: Bougainville can only be congratulated for having preceded them. There remains the question of informing the Spaniards of our new establishment. … However, the thing is delicate,.."* [23]

Delicate indeed. Convincing Madrid that the location of the archipelago precluded Spain from any claim would be hard. So Choiseul employed an expert in Spanish diplomacy, an Italian, the Abbe Augustin de Béliardi. He told Choiseul that Spain held France in poor regard, seeing the long-standing alliance only as a diplomatic necessity, and that Spain was unlikely to accept any erosion of its claims to American seas. All territory, discovered or undiscovered, occupied or unoccupied, near Magellan's Strait would be claimed by Spain. However, Béliardi agreed to assist, despite initial exchanges between the courts not appearing to offer the prospect of an immediate solution. A situation made worse when Louis XV publicly adopted the fledgling colony as his own.

In Madrid, Minister Grimaldi had a desktop covered in reports. One announced a new French colony in what he believed was a Spanish sea. Another told of Byron departing on July 3rd for the same region. Added to those were missives from other Spanish Ministers, demanding he defend Spanish rights. At all costs. From all intruders. The letter from the Conde de Aranda pointedly had a copy of London's 1753 chart attached. Added to that, Britain's Ministers were maintaining a suspicious silence. Spain's Ambassador in London, Don Filippo Vitorio Amadeo Ferrero de Biella, Prince of Masseran (Masserano), was getting no answers. Grimaldi had little choice but to stand firm and resist all encroachment.

Bougainville was presented to Louis XV on August 1st, 1764, in a ceremony where the King accepted his new colony as a 'gift'. Louis also approved a second expedition to increase the size of the settlement at Port St. Louis. All this made the journals two days later, fuelling speculation about who had the better claim.

> *"According to the latest opinions of Paris, the French are currently in possession of the Malouines Islands. The title of first occupants can not therefore be denied. But they cannot claim to have discovered them first. This honor, if it is one, must be attributed first to the English, then to the Dutch. These islands, .., were described in 1594 by Captain Hawkins, who named it Maidensland."* [24]

Once France's Law Officers had confirmed that first occupation trumped all other claims, Bougainville was told that he was free to return to Accaron Bay. He departed France on October 6th, 1764, leaving Béliardi and Choiseul to deal with Madrid.

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23 Choiseul quoted in *Bougainville navigateur et les decouvertes de son temps* J. Martin-Allanic 1964
24 *Gazette de La Haye* August 13, 1764

A week later, a store-ship, *Florida* slipped away from the English coast for a pre-arranged rendezvous with Byron. Unnoticed by Masserano's spies. Following Hawkins's 1594 claim, Britain considered the Falklands to be a possession of George III, but an occupation was needed to reinforce that claim. Little point in going into an argument not knowing whether the prize was worth it. Word from Byron was anxiously awaited. The commander, meanwhile, was sailing away from Rio de Janeiro. Sailing south, not east towards the Indian Ocean. His officers and crew mollified by a promise of double pay plus an increased alcohol allowance, their first task was to find Pepys Island. An impossible endeavour abandoned after two searches in December 1764.

Back in Paris, Choiseul's confidence was suffering yet again under an onslaught from Spain's Ambassador, Count Fuentes. A stand-off and a fall-out, but Choiseul blinked first. On December 14th, 1764, Choiseul assured Fuentes that France was willing to remove its colony. A single condition was that Spain occupied the archipelago to keep Britain out. On the other side of the globe, Bougainville arrived back at Port St. Louis on January 5th, 1765. Also needing to know what the territory was worth, he set out, on foot, to reconnoitre the lands to the south of the settlement. Finding high ground (Mount Usborne) near an isthmus, he ordered details of France's occupation be placed in a bottle and set on the mountain top. A few days later, approaching from the north-east, Byron sighted the archipelago. Boats were sent out to reconnoitre; one from *Tamar* reporting the discovery of a fine harbour on January 15th, 1765. Sheltered by the mass of Falkland's Isle to the southeast and two islands to the west and north, the body of water was considerable. Large enough, in Byron's own words, to hold all the Royal Navy. Impressed, Byron named the harbour Port Egmont after one of the expedition's sponsors.

> *"... I took Possession of this Harbour & all these Islands for His Majesty King George the Third of Great Britain & His Heirs, tho' they had been before taken Possession of by Sir Richard Hawkins."* [25]

Britain's colours were hoisted on January 22nd, 1765, to the sound of a gun salute from the ships. Vegetable gardens planted for those that Byron knew would follow. Just in case there was any doubt about Hawkins's 1594 claim for England, Byron renewed it, before leaving. His job was to assess the islands' potential and to survey the territory. Byron did half a job on both counts. He sailed east along the northern coast before turning south along the eastern coast; naming Accaron Bay as Berkeley Sound without entering. Byron had no news of the French, and it seems that the Commodore was in a hurry. Supplies were running low and there was a rendezvous to make. On February 2nd, Byron abandoned his reconnaissance and sailed for Patagonia. By some strange coincidence, that very same day Bougainville sailed from Port St. Louis in search of timber. The only Europeans in the South Atlantic – what were the chances?

25 Byron quoted in Gallagher R. E. *Byron's Journal of his Circumnavigation 1764-1766* 1964 p.60. There exists more than one version.

As arranged, Byron met up with *Florida* near Puerto Deseado before moving on to transship supplies at Port Famine. Also an excellent location for taking on timber. Byron saw Bougainville's ship approaching on February 16th, 1765. Letters carried on *Florida* had forewarned Byron while Bougainville knew that a British expedition had left England. The presence of another ship then surprised neither man, although both were wary enough to keep their distance. Despite the information sent him, Byron was not convinced that the French ship was doing any more than surveying the Patagonian coast. The very excuse that Bougainville had given the Montevidean Governor for his presence in the South Atlantic. Once supplies had been loaded, Byron left, passing through the strait and into the Pacific. *Florida*, carrying Byron's reports also departed, leaving the French to chop trees. Bougainville did not remain long in the South Atlantic either. He sailed for France on April 27th, 1765. Left behind were 75 French settlers preparing for an austral winter.

Delayed by adverse weather and scurvy, Bougainville's journey to St. Malo took four months. *Florida* was quicker, arriving back in England on June 21st, 1765, with news of Byron's acts of possession and the sighting of a French ship. While Byron's reports were welcomed in London, Bougainville found nobody waiting for him at St. Malo on August 12th, 1765. Five days later, on reaching Paris, he was told that Choiseul was out of the city. It was another week before the Minister returned. Shrugging off Bougainville's news of Byron, Choiseul told him of the decision to offer up Port. St. Louis. Excusing himself, Choiseul suggested that France's claim of first discovery was in doubt and that the islands appeared contiguous to those American coasts belonging to Spain. That being the case, the archipelago was Spanish under the terms of the Treaty of Utrecht 1713. Undaunted, Bougainville argued, in a lengthy *memorandum*, that Spain's failure to occupy the islands was evidence, pertinent to any interpretation of Utrecht, that the islands were not Spanish before 1700.

> *"Spain is not entitled to make any claim on this establishment. It is an acknowledged principle that new lands belong to the first occupant. We discovered and established first the Malouine islands. It can not be contested."* [26]

Choiseul dithered. Then agreed to delay a final decision until Bougainville had presented his case in Madrid. Until the outcome of that was known, the Port St. Louis settlement would be resupplied. *Etoile* sailed south from St. Malo on November 9th, 1765, and *Aigle* followed twelve days later. On their arrival at Port St. Louis, they would be greeted with the news of a second birth – Adelaide to Augustin Benoit and Francoise Terriot. Bougainville remained in Paris; his trip to Madrid almost immediately postponed following the death of Louis XV's son in December 1765. All diplomatic exchanges ceased for a period of mourning. Bougainville found himself in limbo for three months.

26 Bougainville quoted in *Racines & Rameaux Francais d'Acadaie: Recherche Genealogique et Histoire de l'Acadie* G. Scavennec 2005 p.248

M^{c}Bride

Byron's report, when it reached London in late June 1765, lavished praise on the suitability of the harbour that he had discovered and its potential as a British base. It also offered reassurances that the French were not inhabiting the islands. Lord Egmont, presumably pleased to have a topographical feature named after him, wrote to the Secretary of State for the Northern Department, enclosing all that was known about the archipelago's discovery.

> *"The Perusal of these Papers will, I believe completely prove his Majesty's Title. It will also shew the great Importance of this Station, which is undoubtedly the Key to the whole Pacifick Ocean. This Island must command the Ports & Trade of Chile Peru, Panama, Acapulco, & in one word all the Spanish Territory upon that Sea. It will render all our Expeditions to those parts most lucrative to ourselves, most fatal to Spain... as to Spain, it is impossible that even their pretended Title from the Pope's Grant or any Treaty (so far as I can recollect) can give them the least Claim to an Island lying 80 or 100 Leagues in the Atlantick Ocean eastward of... South America, to which it cannot be deem'd appurtenant, … With respect to France … the 1st & 2nd Discoveries of this Island were both by the Subjects, & under the authority of the Crown of G. Britain in the reigns of Q. Elizabeth and Charles the Second, and the French never saw them until the reign of Q. Anne."* [27]

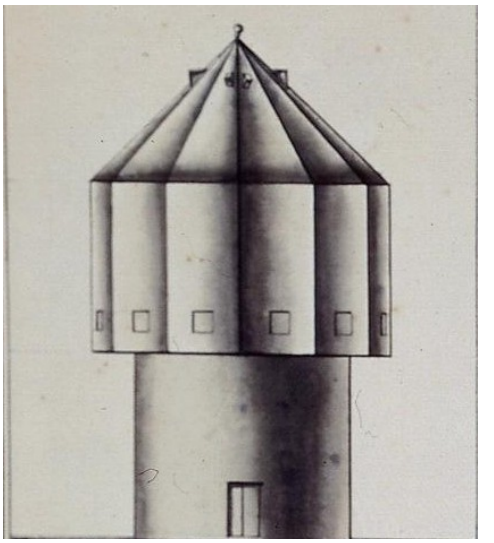
Egmont was persuasive. On September 26th, 1765, Captain John McBride, commanding the frigate *Jason*, sloop *Carcass* and store-ship, *Experiment*, was ordered to take out a prefabricated fort for the protection of an establishment that he was to found. He was also required to complete the reconnaissance that Byron had not. If a French base was found, McBride's orders required him to remonstrate with the occupants before demanding that they evacuate within six months. Without the secrecy surrounding the first expedition, Masserano was able to ask questions. Not that he received many answers. McBride sailed on October 16th carrying the blockhouse, bricks, and timber for the construction of shelters. Possession Island was renamed Saunders Island. McBride arrived in the harbour of Port Egmont on January 8th, 1766. He wasted no time; settling upon the location of the blockhouse on Saunders Island and laying out the plan of a small town nearby – Jason's Town. Undertaking, at the same time, a survey of the surrounding countryside.

> *"I perfectly reconnoitred a mass of islands and broken lands, and the only method in my power to examine them carefully, was to do it by canoe,.. Everywhere, the land is in peat bogs and completely devoid of wood. … sharp and barren mountains, hard to climb, but above all, constant gales of wind, and we are in the summer,.. The fort was mounted near the watering hole. I made it as comfortable as possible ... We will start to make gardens, but my self-confidence is not very high. This country is demanding more skilled farmers than sailors to get something out of it."* [28]

27 *Egmont to Grafton* 20 July 1765 in *SP 94/253, fol.238*. A reference to both Davis and Hawkins.
28 M^{c}Bride quoted in *Bougainville navigateur et les decouvertes de son temps* J. Martin-Allanic 1964 p.405

In the expectation that McBride would arrive safely, the store-ship, *Florida*, departed England on January 22nd, 1766. In addition to supplies, the ship carried a chart acquired from France, indicating the location of Port St. Louis. *Florida*'s voyage would turn out to be long. Captured by Barbary pirates, the ship was taken to North Africa before, after some negotiation, being released. *Florida* then made for Gibraltar. Once there further instructions were sought from London adding to the delay. The ship, its stores and the chart finally reached Port Egmont on November 22nd, 1766. Seven months before, McBride had sent *Experiment* back with his first reports – all less favourable than Byron's.

Byron had returned to England on May 19th, 1766, fêted upon his return despite having ignored most of the expedition's objectives. After leaving the western mouth of the strait, he had sailed straight for home. Why is not clear, although there was some suggestion that the alcohol had run short. Masserano was very keen to know where the Commodore had been, but when he asked, the answer was that Byron had "*been out looking for giants*." Despite it being only an oblique reference to Patagonia, Spain's Ambassador protested. Lord Richmond responded; "*would Spain claim to be mistress of the world?*"[29]



Fort George on Saunders Island depicted by a Spanish artist circa 1770

McBride's reports arrived in England on June 18th, 1766, closely followed by rumours from Paris of some accommodation between Choiseul and Grimaldi.

> *"I find it now agreed between the French and Spanish Courts that the former shall renounce all claim to these Islands and that M. de Bougainville shall be reimbursed by Spain the expenses of his settlement, but this last matter is to be left to be finally adjusted by Count de Fuentes..."* [30]

29 *De Guerchy to Choiseul* June 10, 1766 in Martin-Allanic 1964 p.307
30 *Lewis de Visme to Henry Conway* May 19, 1766

"According to private letters from Paris, the Court of Madrid is said to have purchased the island discovered by Mons. Bougainville, on account of its situation between Streights la a Mair and those of Magellan, of the greatest importance, by means of its port, to prevent the progress of an enemy round Cape Horn into the South Seas." [31]

Three days after *Florida's* final arrival at Egmont, one of McBride's survey parties discovered the French bottle left by Bougainville on the mountain top; twenty-two months before. Between the chart and the bottle, the information was enough to identify the location of Port St. Louis so McBride set out to meet his French neighbours. An encounter that came in early December 1766. There are two versions of what happened. The first, and official one, is that following a polite stand-off, complicated by a lack of interpreters; the French allowed four of McBride's officers to inspect their settlement. Capt. McBride then demanded that they leave within six months before sailing back to Port Egmont to await his relief. All very precise. Another story has it that once the formalities were complete, they all sat down together for a drink. Far from home, the latter version seems the more likely. It may also explain how the French learned of the location of Britain's establishment. Information they did not, subsequently, pass on to Spain.

Receipt

In Paris, once the period of mourning had passed, day-to-day politics resumed. Choiseul, promoted to Foreign Minister, immediately instructed Bougainville to go to Spain. His official position was courier to the French Ambassador. Bougainville's unofficial instructions called for him to argue his case, but he was not given any diplomatic character. Bougainville rode out of Paris on April 9th, 1766 and arrived in Madrid on April 18th. Following an initial consultation with France's Ambassador, d'Ossun, Bougainville submitted his argument to Grimaldi. An edited version of the report he had first submitted to Choiseul in 1763. Grimaldi, however, remained unmoved. After some discussion, Spain's Council of Ministers agreed with Choiseul's assessment that the islands needed occupation to keep Britain out. But not by France. Bougainville was told that he must abandon Port St. Louis without compensation.

"One should not erect buildings on someone else's land. Let your King, who employed you, refund your expenses." [32]

A personal plea by d'Ossun to Spain's Carlos III resolved that particular issue. Overruled, Spain's Ministers then insisted that handover arrangements must precede any payment. So Bougainville returned to Paris. On July 11th, 1766, Grimaldi confirmed, via Fuentes, that Spain would occupy the "*island Malouine*" with sixty men, their officers, and a governor. Fuentes was told to press for a final resolution with Bougainville.

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31 *Salisbury & Winchester Journal* Monday June 30, 1766

32 Spain's Finance Minister, Miguel Muzquiz, quoted in *Storms and Dreams: Louis De Bougainville: Soldier, Explorer, Statesman* J. Dunmore 2005 p.133

Ten days later Fuentes met with Choiseul. At that interview, Fuentes asked for a – "... *document confirming the cession of the Malouines Islands and instructions for the French who occupy them*." [33] This was confusing, as Spain had consistently maintained that its rights predated French occupation. The islands were to be returned, not ceded. Fuentes also requested that a pilot be provided to assist Spanish ships in sailing to the islands. This rather confirmed Bougainville's view that Spain had never visited the archipelago.

Meanwhile, in Madrid, on July 29th, 1766, Spain's Ministers selected Felipe Ruiz Puente y Garcia de la Yedra to be their new Governor in the Malouines. In London, during August 1766, Masserano continued to complain about the suspected British presence in the South Atlantic, arguing that such was a breach of article 8 of the 1713 Treaty of Utrecht. Lord Shelburne responded that Spain's interpretation was wrong, and that Utrecht did not restrict the occupation of uninhabited territory.

Around the same time, in Paris, Fuentes was complaining that a month had passed without any of the requested paperwork appearing. Choiseul assured the Ambassador that Bougainville would carry all the documents to Madrid in due course. Together with his company accounts for assessment. France's Foreign Minister did sign a document informing the French settlers at Port St. Louis of the change of regime, but no document ceding possession to Spain. Nothing to suggest an abandonment of French claims. Nothing to recognise Spanish sovereignty. Choiseul only acknowledged a de facto handover by a French company to the Crown of Spain. [34] He also failed to mention something else. Bougainville had a new plan. To be the first Frenchman to circumnavigate the world. Through the very seas that Spain claimed as its own. A conversation best left to another time. In Madrid, on September 15th, 1766, Bougainville met with Minister Grimaldi and handed over the accounts of the St. Malo Company. It took two weeks of scrutiny before Spain's Ministers finally approved them. Once accepted, Carlos agreed to return the outlay which amounted to 618,108 livres, 13 sous and 11 deniers.[35] All the facilities, houses, boats and supplies, belonging to the St. Malo Company, would transfer to Spain.

This was an arrangement between the St. Malo Company of France and the Crown of Spain. A private agreement. It is important to remember that Bougainville held no office of State, nor did he carry any papers to say that he represented the French government. France's Ambassador to Madrid was present during Bougainville's interviews, but avoided signing anything. Choiseul may have backed down on transferring power, but he was no fool. Accepting a practical arrangement was not the same as giving away French rights. Who knew what the future may hold? Financial arrangements settled, Bougainville wrote out a receipt on behalf of the St. Malo Company. In it, he voided any future claims that the company may have considered. The Compagnie de Saint-Malo, not France.

33 Martin-Allanic 1964 p.324

34 *Falklands or Malvinas: Myths & Facts* M. P. Peña & J. A. Peña 2018

35 *Simancas, Estado, Leg. 6.957.* Approximately (very) 100 livres to an ounce of gold.

"I, Monsieur Louis de Bougainville, Colonel of the Army of his most Christian Majesty, have received six hundred and eighteen thousand one hundred and eight livres, thirteen sols, and eleven deniers, being the amount of an estimate that I have given in, of the expenses incurred by the St. Malo Company in expeditions sent out to found establishments in the Malouine Islands, belonging to his Catholic Majesty, in the following manner:–

Forty thousand livres delivered on account to me in Paris, by his Excellency the Count de Fuentes, ambassador of his Catholic Majesty to that court, for which I gave the proper receipt. Two hundred thousand livres, which are to be delivered to me at the same Court of Paris, according to bills drawn in my favour by the Marquess of Zambrano, Treasurer-General of his Catholic Majesty, upon Don Francisco Ventura Llorena, Treasurer-Extraordinary of the same; and sixty-five thousand six hundred and twenty-five hard dollars, and three-fourth parts of another, which are equivalent to the three hundred and seventy-eight thousand one hundred and eight livres three sous and eleven deniers, at the rate of five livres per dollar, which I have to receive in Buenos Ayres, on account of bills which have been delivered to me, drawn by His Excellency the Baylio Fray, Don Julian Arriaga, Secretary of State for the general department of the Indies and navy of his Catholic Majesty. In consideration of these payments, as well as in obedience to his Most Christian Majesty's orders, I am bound to deliver up, in due formality, to the court of Spain, those establishments, along with the families, houses, works, timber, and shipping built there, and employed in the expedition; and, finally, every thing therein belonging to the St. Malo Company, as included in the accounts which are so settled, and to his Most Christian Majesty, in consequence of his voluntary cession, making void for ever all claims that the company, or any person interested therein may have, or might produce, upon the treasury of his Most Catholic Majesty; nor can they henceforth demand more pecuniary, or any other compensation whatsoever. In testimony whereof, I set my name to this present instrument and voucher, as one principally interested, as well as authorized to receive the whole of this sum, agreeably to a registry in the department of state in St. Ildefonso, 4th October, 1766."

A company receipt. Not a Treaty. Not a Convention. A contract, perhaps? Nothing more. Grimaldi could now look towards England. Governor Francisco de Paula Bucareli y Ursúa (Bucareli/Bucarelli) in Buenos Aires, was urged to extend the search for Britain's base.

"... it is urgent.., Your Excellency must inspect the respective coast to the Strait of Magellan, and successively to Cape Horn, ... Puente, (must inspect) the part that he will be responsible for, after he takes possession of the Malouines Islands, ... And you must instruct the Captains, so that, entering the place where they find the establishment, to counter, as surprised by them, of their intrusion into the dominions of His Majesty, against the good faith of the treaties and harmony that subsists between the two nations, protesting against their contravention, (while taking the opportunity) to learn about the entity of the establishment, the number of people and the extent of fortifications, returning immediately to inform Your Excellency, who will dispatch, without loss of moment, a warning to (Spain) with this news..." [36]

36 *D. Julian Arriaga a Sr. D. Francisco Bucareli* 29 de Deciembre de 1766

3

First Shots

"Even accepting that the whole of South America belongs to Spain, what rights can she have to an island lying 80 leagues from that coast." [37]

New Year 1767 saw Capt. John Raynor arrive at Port Egmont in *Swift* to take over from *Jason*. His own task completed, McBride sailed for England on January 18th, 1767. He left behind some 90 men to garrison the still incomplete Fort George and finish building Jason's Town. Three weeks later the British store-ship *Prince Frederick* anchored in the harbour. She carried saplings from Patagonia, 50,000 bricks, 10 barrels of rum, 10 barrels of brandy, 120 barrels of beer, 120 barrels of Madeira, 400 casks of salt beef, 200 casks of pork, 25 marines, 9 women and 11 children.

A Draught of Falkland Islands in the latitude of 51° 22' South, longitude 64° 30' West. Published as the Act directs 1st. Jan. 1770 by Carrington Bowles (London) (Port Egmont detail)

Arriving back in England on March 20th, 1767, McBride oversaw the creation of charts based upon his survey work. Charts after 1717 had been vague, depicting one landmass. One single island, Falkland's Isle, with the Sebald de Weerts off to the north-west and islets to the south (Anican Islands). An Argentine history book of 1910 would claim that the British only ever occupied Saunders Island; and that Saunders was the location of Port Egmont. What the author (Paul Groussac) failed to grasp, was that a harbour is a body of water. Port Egmont was a harbour, sheltered on three sides by islands; West Falkland,

37 Bougainville quoted in *A Short Biography of Louis-Antoine de Bougainville, 1729 – 1811* J. Robson 2005

Saunders and Kepple. Fort George and Jasons Town went onto Saunders Island only because it offered the best protection from the prevailing winds. On Kepple Island was placed an observation post. On the largest island, a shelter for those fishing its rivers. Port Egmont was part of Gran Malouine. West Falkland Island. McBride's chart work was to prove illuminating, although his less than complimentary reports raised concerns. *Florida* returned to England on July 7th, 1767, with a report of three houses completed and a barracks.

> *"The number of inhabitants consists of only 50 naval soldiers and 35 people among whom are three women and two girls aged 7 to 8 years. We sowed vegetables, which succeed badly; the hunt is successful, but the birds having become fierce, they are attracted to the fire at night: there is a kind of fox and hares. The pigs populate well, three cows gave birth and the horses did not die. The fish is abundant. Due to the lack of wood, grass and rush roots are burned with their silt."*

Soledad

When McBride sailed from Port Egmont, Bougainville, was headed in the opposite direction. He arrived in Montevideo on January 31st, 1767 to find two Spanish frigates, *Esmeralda* and *Liebre,* waiting. Spain's newly appointed governor for Port St. Louis, Ruiz Puente, was there to greet the Frenchman. On February 28th, they sailed out of the Rio de la Plata bound for the islands. Ruiz Puente took with him 419 infantrymen, 63 gunners, 104 able seamen, 133 apprentice seamen, 4 Franciscan priests and a tile and brick-maker. Also, the naval officers' personal servants, accountants, chaplains, and a surgeon. Spain's new Governor would seem to have had little idea as to what awaited him. Unaware, for instance, that the accommodation consisted of one longhouse and some out-houses roofed with canvas. Bougainville got to Port St. Louis first. There he found that two more children had been born. The ever virile Augustin Benoit had fathered another girl, Anne, while Georges Charpentier had added to his family. Spain's governor arrived off his new fiefdom on March 24th, 1767. What he found, dismayed him.

> *"This Island, on which the colony is established, is one of the so-called (Malouines), ... From the tops of its highest mountains one can see (though not perfectly) the channel or Strait of sea that divides it from others, ... The only thing that is considered useful in it is reduced to three points: first, the port for refuge and refreshment of our boats in these seas; secondly, the grass for the subsistence and breeding of all rural cattle, but not for the minor and domestic because for this it is necessary to bring the food from another part; thirdly, the climate, which in the midst of its remarkable unemployment seems purposely for the preservation of food and even for the salting of meat. With the exception of these objects, it happens that the island is worth nothing because it yields nothing, ... for which reason it is indispensable that whatever is considered necessary for human life in this destination, including that firewood, be brought from outside."* [38]

38 From *Pirateria y Agresiones de los Ingleses en la America Espanola* Justo Zaragoza 1883 (republished 2005 by Jose Maria Sanchez Molledo). This contains the work of Dionisio de Alsedo y Herrera (1690-1777) – historian, geographer, American expert and advisor to the King of Spain.

Ruiz Puente had undoubtedly been expecting more. His mood was unlikely to have improved with the news that most of the cattle he had shipped out, had died before reaching the islands. The winter food supply was gone.

France's settlers gathered together on March 29th, 1767, to have Choiseul's letter read to them. Decisions, about staying or leaving, were theirs alone. Those that wished to remain could do so, but under Spanish governance. Thirty-seven opted to stay. At sunset on April 1st, 1767, Bougainville lowered the French flag to mark the end of his enterprise. Ruiz Puente raised Spain's standard at dawn on April 2nd to mark the beginning of theirs.

> *"... and henceforth the sovereignty of the Falkland Islands was an Anglo-Spanish problem."* [39]

So began the Spanish period at the renamed Puerto Soledad. Port Solitude. Malouines would become corrupted by Spanish tongues to Maluinas. By 1802, the letter 'u' had evolved through poor handwriting, to a 'v'. Malvinas. The Spanish name for the islands, even today. Just bad French. On April 2nd, Puente's officers saluted their flag before, to a man, writing pleading letters for reassignment. Ruiz Puente wrote too. His first complaint was that Spain had paid far too much, for far too little. Then there was the climate. France's Acadian settlers were a tough people, used to hardships and Canadian winters, while Spanish experience involved more temperate climes.

On April 24th, 1767, ninety-five settlers embarked onto Spain's ships to return to Montevideo. To await transport back to France. With the ships went the news that the British were there. Somewhere there. None of the settlers had informed Ruiz Puente as to the location although they seem to have known it. Bougainville went on to complete his planned circumnavigation. The first Frenchman to do so. Spain told too late to prevent it. Bougainville arrived back in St. Malo a hero albeit long before some Acadians managed to get home. Spain, unhappy with the deal, was tardy in meeting its commitments. Bougainville never did forget his hopes for the Malouines and would remind the French Government of them over 30 years later. In 1767, however, Spain's Minister Grimaldi was frustrated. They had a new colony, but little idea of its value. Worse, was the news that Britain had a base in the same area. But where? In the islands or on the Patagonian coast? A search south of the Rio de la Plata, in December 1767, found nothing. With more effort needed, on February 25th, 1768, a Royal Order for Governor Bucareli in Buenos Aires was prepared by Spain's Minister for the Indies, Julián de Arriaga.

> *"His Majesty orders me to efficiently entrust your Excellency be very careful not to allow any establishment of the English; and for those who have, expel them by force, if they do not obey the warnings, .., and without needing more orders, nor instruction, ..."* [40]

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39 *Anglo-Spanish Relations in America in the Closing Years of the Colonial Era* Vera Lee Brown 1922 p.403

40 *Julián Arríaga a D. Francisco Bucareli* February 25, 1768 quoted in Angelis 1852. If the British were found with superior forces, then Bucarelli was to protest only and seek further instructions.

With most of the original force sent back, Ruiz Puente reported on March 20th, 1768, that he commanded five 'officers of war', seven political officers, 23 infantry and 8 gunners, 17 seamen, 5 convicts, 1 armourer, 1 baker, 1 farmer plus 13 holding other trades. Also women, children servants, labourers, one tailor and one 'lady of a war officer.' [41] His first task had been to discover the layout and nature of the islands, with exploration and surveys to keep the men busy. The weather, however, limited what could be achieved. Those Acadians who remained wrote that their new Spanish masters stayed close to the fires. Supplied by sea, Ruiz Puente also received a copy of the Royal Order of that September. With limited resources, there was little he could do and the rest of 1768 saw no change in the situation. Britain's garrison was also supplied by sea. *Favourite* under William Maltby arrived on the first day of February 1769 to find Fort George incomplete. The blockhouse being used as a store. Seven houses had been completed in Jason's Town, but there were no defences.

A week later, *Santa Rosa* sailed into Puerto Soledad with 17,000 pounds of wheat flour, 64,000 pounds sifted, with bran, 8,000 pounds of spices, 17,000 pounds of salt beef, 8,000 pounds of salt pork, 2,500 pounds of yerba mate, 700 pounds of chilli peppers, 1,400 pounds of tobacco; 3,600 pounds of lard, twelve barrels of brandy, eight of wine and 5,700 pounds of wood charcoal. Construction materials were among the stores. Necessary for the repair of the collapsing turf structures left by the French. Not enough, though, to raise Spanish spirits – "*Enough Sir. Enough with the Maluinas! They are the most mean and sterile thing one could ever imagine.*" [42] In mid-November, with the weather improving, Ruiz Puente sent *San Felipe*, the garrison's only ship, out on survey work to the north-west. It was *San Felipe* that *Tamar*, under Capt. Anthony Hunt, encountered on November 28th, 1769, in White Rock Bay.

> *"... I fell in with a Spanish schooner, taking a Survey of them, and on Examination found him belonging to a Spanish Settlement on the East Part called Port Solidad (sic), in Possession of the French in 1767, and by them called Port Louis. Agreeable to my Orders, I warned him to quit the islands; in Consequence of which he sailed..."* [43]

Pilot Angel de Santos protested but agreed to take Hunt's warning to the Governor. Ruiz Puente sent his own protest with an accusation that Hunt had been 'insulting' when he had spoken to the Spanish pilot. Lt. of Foot, Mario Plata, sailed with this message to White Rock Bay on December 10th, 1769, where Hunt was waiting. The two officers exchanged formal protests, but Hunt's specific demand that the Spanish leave within six months, was perceived as a threat. Diplomacy faltered. Hunt's alleged insult was never clarified, but the demand that Spain leave was in compliance with his general orders. Lt. Plata complained to Ruiz Puente who sent a further protest referring to "*extraordinary menaces*".

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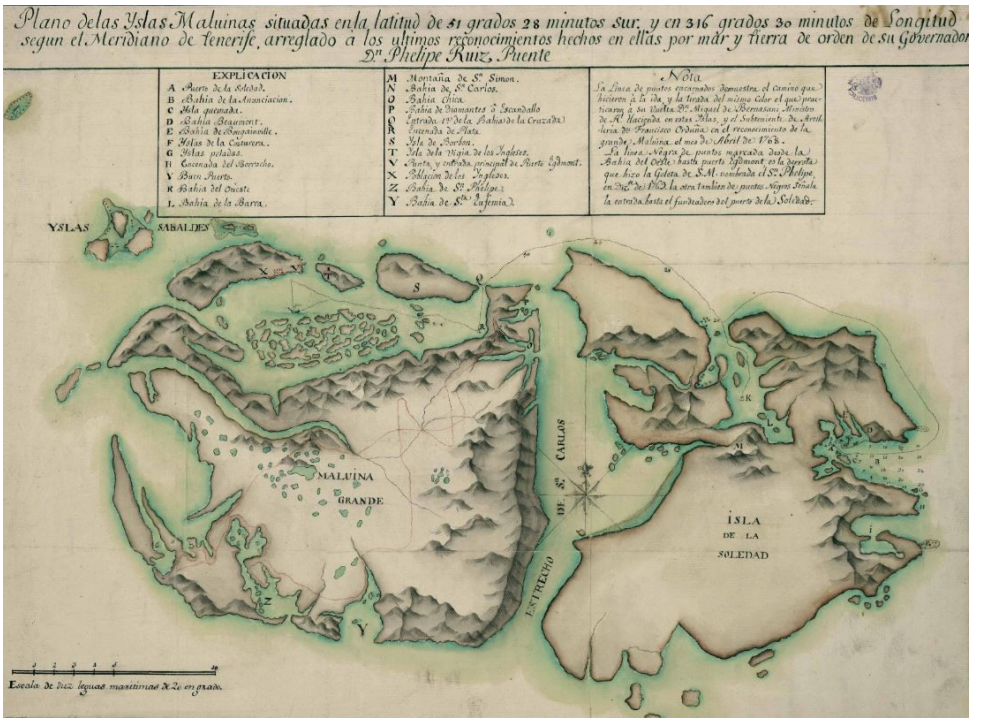
41 *Pirateria y Agresiones de los Ingleses en la America Espanola* J. Zaragoza 1883.
42 Ruiz Puente in *The Catholic Church in the Falkland Islands: A short historical survey* A. Agreiter 2002
43 Hunt quoted in the *Derby Mercury* Friday March 1, 1771

Exaggeration or mistranslation? In any event, realising that Hunt had not sailed far, Lt. Plata picked up the search and on December 16th, sailed into Port Egmont. He reported back that there were two ships, eighty men at most with earth defences, three embrasures and a single cannon. [44]


Plano delas Yslas Maluinas situadas en la latitud de 51 grados 28 minutos Sur. y en 316 grados 30 minutos de Longitud
segun el Meridiano de Tenerife, arreglado a los ultimos reconocimientos hechos en ellas por mar y tierra de orden de su Gobernador
Dn. Phelipe Ruiz Puente
EXPLICACION
Nota
YSLAS
SABALDES
MALUINA
GRANDE
ISLA
DE LA
SOLEDAD
DE S.T CARLOS
ESTRECHO

Circa 1769 *Map of the Maluinas Yslas located at the latitude of 51 degrees 28 minutes south ... arranged to the last reconnaissance made of them by sea and land by the order of their Governor Dn. Phelipe Ruiz Puente (Spanish).*

Meanwhile, back in Buenos Aires, Governor Bucareli, was preparing for another search of the islands based on information gained from English sailors. By the Royal Order of February 25th, 1768, Don Fernando de Rubalcava, commanding three ships, was to dislodge any foreigners he found. If faced with a superior force, he was to protest and withdraw. Wise, given that both *Florida* and *Swift* (Capt. George Farmer), were approaching Egmont. So it was, on February 18th, 1770, that when Rubalcava's three ships arrived in Egmont harbour they found three British frigates riding at anchor, plus another they could not identify (*Florida*). Without an overwhelming force, Rubalcava lied to excuse his arrival; telling a sceptical Hunt that his only purpose was to take on water. His protest was immediately challenged by a counter-protest from Hunt and an instruction to leave once watering was complete. Having spied out the land, Rubalcava sailed on February 26th.

44 *La cuestion de las Malvinas contribucion al estudio de la relaciones hispano-inglesas en el siglo XVIII* M. H. Nieto 1947.

While the Spanish flotilla was taking on water at Egmont, Puente's warning reached Buenos Aires. Bucareli immediately ordered the preparation of more ships. Major-General Juan Ignacio de Madariaga was reminded of the Royal Order that the British had to be ejected.

Once Rubalcava's ships had left, Hunt handed over and set out for England in *Tamar* and *Florida* on March 7th, 1770. Remaining was *Favourite* (Capt. Maltby) and *Swift* (Capt. Farmer). A force reduced, a week later, to a single ship when *Swift* foundered in a storm off Patagonia. Most of the crew struggled to shore. They managed to build a cutter and send for help across some 370 nautical miles of freezing water. Rescue arrived with *Favourite* on April 6th, 1770. One ship, two crews.

On May 2nd, 1770, a week before Madariaga sailed, Governor Bucareli sent letters to Madrid. These informed both de Arriaga and Grimaldi that Egmont was found and of his plan to send an enlarged squadron to eject the British.

Madariaga sailed his flagship, *Industria*, into the harbour of Port Egmont on June 4th, 1770. Joined shortly thereafter by *Santa Bárbara* (Jose Diaz Veanez), *Santa Catalina* (Fernando Rubalcava), *Santa Rosa* (Fransisco Gil de Taboada y Lemos) and *Andaluz* (Domingo Perletto). On the ships were 1,400 marines equipped with 27 cannon, 4 mortars and 200 bombs. An overwhelming force. Maltby, with just one ship, ordered the Spanish to leave. Unsurprisingly, they did not.

> *"... we had nothing to oppose them, except the Favorite of 16 guns. There was indeed a block-house, originally intended to receive seven six-pounders, but the port-holes were not cut. The frame had been built in England, and was sent out at a great expence (sic), with no guns or ammunition, we therefore used it as a store-house for our provisions; but on this occasion it was cleared, and four port-holes cut, to receive four twelve pounders, that had been left on the shore by the late Admiral Mac Bride, ..."* [45]

Madariaga demanded an immediate surrender but Captains Maltby and Farmer refused. Not wishing to see a massacre, nor start a war, Spain's commander invited both captains to inspect his forces. They did, but while recognising the hopelessness of their situation, neither was willing to stand down. Not without some demonstration. During the night of June 9th, Maltby took 50 men and two cannon to garrison Fort George, while Farmer re-positioned *Favourite* between the Spanish and Jason's *T*own. On the 10th, Madariaga landed his marines to the north of Fort George before sending boats in a direct attack towards the shore. Both sides fired at each other. Or at least in the general direction of each other. Poorly aimed cannon fire from Madariaga's ships, passed over the blockhouse roof without damage or injury, while Britain's defenders also managed to miss everything they shot at. With honour satisfied, Maltby and Farmer hoisted a flag of truce.

45 Quoted in *An Account of the Loss of His Majesty's Sloop Swift, in Port Desire, on the Coast of Patagonia on the 13th of March, 1770*... E. Gower 1803 p.42

Terms were complicated somewhat by Madariaga's need to delay the British departure. Having complied with the Royal Order, the Spanish commander wished to be the one to deliver the news to Spain. Any glory would then be his. Knowing first would also give Madrid an edge in the discussion with London that was bound to follow. Nobody wanted a war. Madariaga explained to the British captains that he was obliged to make a full inventory of everything seized and that this would take time. He then removed *Favourite*'s rudder to ensure that the British could not leave. This action just added insult to injury. On June 24th, 1770, Madariaga sailed in *Santa Catalina* to Puerto Soledad where he informed Governor Ruiz Puente of events. Six days later he sailed for Spain. Exactly twenty days after Madariaga had departed Port Egmont, *Favourite* sailed too.

British forces were replaced by a Spanish garrison. Infantry Lieut. Juan Serrato commanding one sergeant, two corporals and 17 men; also a chaplain, doctor, baker and 6 convicts; "*... to tend the large vegetable gardens...*" [46] Over Fort George, Spain's naval ensign was raised while before Jasons Town the symbol of Spanish ownership was erected. An iron cross. Spain's tradition marks and signs of sovereignty. Marks and signs seen all over the Americas. Erected on the specific instruction of Madariaga. While the Spanish commander believed that his head start would give Spain an advantage, he seems to have forgotten the report that Hunt had carried out of Egmont four months before. London was going to hear of Rubalcava long before Madrid heard of Madariaga. Hunt's news arrived in London in June 1770.

> *"... rumor in the City (is) that the Spaniards had forced the English to abandon Falkland Island."* [47]

Negotiation

Despite the time Spain took to find Port Egmont, the base had not been a military secret. From 1765, Dutch journals identified the Falklands as the location of Port Egmont and British newspapers had also referred to the base as there. Spain's problem was that the British government declined to assist them with an exact location. Indeed, British Ministers seem to have taken some pleasure from Spain's discomfort; responding to enquiries with vague comments about 'giants'.

Spain grew increasingly annoyed but France's Foreign Minister Choiseul urged caution. Louis XV had grown tired of expensive wars; French coffers were depleted and its military much reduced. France was in no condition to support Spain should another conflict erupt. In particular, Choiseul did not want to explain to his King that they were going to fight over a territory that Spain had just prised out of French hands. France required time to prepare, so Choiseul's tack was that, despite his backing down, Spanish sovereignty was uncertain. That Spain's interpretation of Utrecht's article 8 appeared flawed.

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46 *An Archaeological Survey of Port Egmont, Falkland Islands* R. A. Philpott 1992
47 *Chatalet to Choiseul* June 15, 1770 in *Aff. Etr. Angl, 492, f° 216, 15 juin 1770*

Spain's Minister Grimaldi would also seem to have had some doubts despite his previous bull and bluster with France. On July 23rd, 1770, he reassured Choiseul that once the British base was found, action would be limited to a protest. Nothing more. A constraint not in keeping with the Royal Order of February 1768, of which Grimaldi was either unaware or had forgotten. Rumours of an eviction coming from London were, therefore, disturbing. Nowhere near as alarming, however, as the news of Bucareli's planned ejection that arrived in Madrid on August 17th, 1770. Worse, the news leaked out. French Ambassador d'Ossun heard it on the 20th; immediately sending word to Paris. Vexed, Grimaldi opted for a diplomatic denial, assuring d'Ossun that the Royal Order had not been explicit and that no confrontation had been ordered. His problem was though, if Bucareli had usurped the British, Madrid would have little choice but to support him. Grimaldi immediately sent fast horses to warn Spain's Ambassadors in London and Paris. Their instructions were to inform those governments of what may have taken place and, as far as possible, attenuate any effects. Ambassador Masserano in London, in particular, was to emphasise the ill-mannered behaviour of Capt. Hunt. To imply that this may have provoked a reaction that the Spanish Crown had not desired. Masserano was also to reassert Spain's rights to all the lands and islands of the Americas under article 8 of Utrecht.

Hoping to avoid war, Grimaldi then put in place the orders necessary to prepare for one. After the fast horses went a fast ship. New orders for Bucareli to clarify that the 1768 Royal Order was only intended to apply to the coasts of South America. Not offshore islands. If the ejection had not taken place, Bucareli was to limit further action to written protests. If it had, he was to recall any Spanish forces remaining at Fort George. Spain's marks and signs were to remain however. Flags flying, iron cross prominent and unobstructed.

It is unlikely that Bucareli saw any of this before being replaced. José de Vértiz arrived at the city on August 24th, 1770, as its new Governor. In London, Masserano found his world turned upside down. After three years of protests, demands and implied menaces about the British base, he found himself apologising for the very action he had threatened. Lord Weymouth, Britain's hawkish Southern Secretary, was not impressed. He told Masserano, in no uncertain terms, that if the British garrison had suffered ejection it must be restored. And Bucareli punished. If these demands were not met, there would be war. Weymouth ordered the Admiralty to prepare for one. Any hope that Bucareli's ejection plan had not taken place died with the arrival at Cadiz, on September 6th, 1770, of *Santa Catalina*. Madariaga did not receive the hero's welcome he was expecting, his ship and crew immediately quarantined; isolated from all others. Nobody was allowed to step ashore. Madariaga's full report arrived on Arriaga's desk three days later.

Favourite anchored at Motherbank near Plymouth on September 22nd, 1770. Also segregated. War seemed inevitable.

"., we cannot decide yet whether it will be possible to avoid a War. Appearances are otherwise, because it is credible that the Opposition Party (in London) will use this incident to force the Ministry to declare it. … our peace is hanging by a thread..." [48]

"All the Letters received by our Merchants from Madrid, brought by the last Packet, mentioned a Report, which prevailed in that City, of an intended Rupture with England; and that every Hour they expect a Declaration of War to be made there." [49]

If there was an upside, it was that both sides at least knew exactly where they stood. That allowed for negotiation. Diplomats knew how to talk, although who to talk to was not always so clear. Official discussions between Spain and England took place in London. Minister Grimaldi would negotiate with Weymouth (Southern Secretary) via Ambassador Masserano. In the absence of a British Ambassador in Madrid, Weymouth would also communicate with Grimaldi via Secretary Harris who was there. Off the record conversations would take place between Prime Minister Lord North and French *charge d'affairs,* Bertrand de Françés. Choiseul's man in London. Prime Ministers then were not in charge. Regardless of North's title, he did not rule the Cabinet. In 1770, George III made the final decisions and his Ministers all carried, more or less, equal status. George kept in the loop via Weymouth, North, and Rochford (Northern Secretary). In Spain, as well as Harris, Grimaldi would talk to French Ambassador d'Ossun. And, of course, with Choiseul via Spain's Ambassador in Paris, Fuentes. Besides Françés in London, Choiseul would talk to his Ambassador there, the Comte de Guines and in Paris to the Secretary of the British Embassy, Horace Walpole. As Southern Secretary, Weymouth did not speak to Walpole leaving that to Rochford. At least until Weymouth unexpectedly resigned and Rochford became Secretary for both departments. Add to that a bellicose Carlos III watching everything, it was lucky that Louis XV was not, initially, talking to anyone. It can be of little surprise that messages crossed.

Each side's positions was clear enough. In an attempt to resolve the issue quickly, Grimaldi suggested that the British return to Port Egmont. Spain could not be seen to permit foreign forces onto its territory, but would turn a blind eye.[50] Both nations would then withdraw their forces. Mutual abandonment. No admonishment of Bucareli, though. Not unless London reciprocated with criticism of Hunt's rude behaviour. All war preparations to cease. For Weymouth, Grimaldi's argument that Spain could not restore its territory to a foreign power was hardly persuasive. Falklands Isle was British territory. Claimed by Hawkins in 1594. So, Weymouth was adamant that Bucareli's act had to be disavowed and that Britain's return to Port Egmont was not negotiable.

48 *Grimaldi to Bucareli:* September 22, 1770

49 *Northampton Mercury* Monday October 1, 1770

50 Not an idiom in 1770. It took the crisis of that year to relax Lord North's embargo on the recruitment of naval personnel. Money was ever short. With the threat of war, however, a young man would be taken on by his uncle as a midshipman. Horatio Nelson would do well.

In an attempt to mediate, on October 11th, 1770, Choiseul suggested restoration coupled with some mild disapproval of Bucareli's action. This to be followed, at some indeterminate time, by a discussion of sovereign rights. To determine who owned what.

Masserano submitted proposals to Weymouth during November 1770, but as all included criticism of Hunt, they were not acceptable. In rejecting them, Weymouth asserted that Hunt's alleged insult was not equal to the hostile usurpation organised by Bucareli. No discussion on the question of rights would be possible before restoration. Lord North's off-the-record conversations with Bertrand de Françés on November 28th, December 1st and December 3rd, confirmed this position. That there could be no discussion over the right to the islands. Only on the question of satisfaction for the injury suffered. During these private meetings, North repeated that any views he expressed were his own but did say that he saw no advantage in Britain retaining a garrison at Egmont. It is often asserted that this personal view amounted to a promise. A promise to abandon the territory in Spain's favour.[51] It was no such thing. North's primary concern was the treasury, so spending money on unprofitable ventures held no appeal for him.

Meanwhile, Britain continued to prepare for war. Spain did also, but Grimaldi's calls for French assurances of support were going unanswered. Spain's ally was being tardy.

In early December, Choiseul sent to Françés and the Comte de Guines in London a draft-proposal. It called for a declaration and counter-declaration. Spain's declaration would disavow Bucareli's action without naming him. It would also accept a return to the situation as it had stood before June 1770. A final paragraph would assert Spanish rights to the archipelago. Britain's counter-declaration would accept the restoration as fair satisfaction without reference to Hunt. Britain would then acknowledge Spain's pre-existing right to the islands. Lord North saw a copy on December 14th and agreed to pass the draft on to Weymouth. North made it plain, however, that the reservation of right would be completely unacceptable to the Cabinet. Unexpectedly, Weymouth resigned on the 15th. Why is not very clear but his hawkish approach was meeting resistance from other Ministers. Rochford would replace him, but, during the interregnum, North became the lead-negotiator. On the 16th, North and Françés met again; a conversation taken up with the question of Spain's reservation. This discussion focused on the issue of supposed Spanish rights to the territories next to Magellan's Strait. Françés argued that Britain had never denied those rights. North countered that Britain had never acknowledged them either.

Presented by North, Choiseul's proposal for a declaration/counter-declaration was rejected by Britain's Cabinet on December 19th, 1770. Weymouth's resignation was then made public with Rochford appointed to take over the responsibilities of the Southern Department.

51 *The Struggle for the Falkland Islands* J. Goebel 1927

Rochford took charge of negotiations and Ambassador Masserano saw the new Southern Secretary on December 20th, 1770. They did not get on. In those last days of 1770 it all seemed hopeless. On the 21st, Rochford recalled Harris from Madrid; effectively breaking off diplomatic relations with Spain, while on the 24th, Choiseul found himself relieved of his ministry and ordered to his estate. House arrest. Louis XV had finally woken up and decided that he had quite enough domestic problems without another foreign war. This he explained in a letter to King Carlos, emphatically stating that Spain could not expect support from France.

Without the French, Grimaldi knew he had no choice but try to find a compromise. On January 2nd, 1771, Grimaldi sent new instructions to Masserano outlining a face-saving proposal. Negotiations would be French led, with Masserano remaining aloof. Detached. A little diplomatic gout would help. Françés and de Guines would then offer, on behalf of Spain, that the situation at Port Egmont be restored to that before June 1770. Sovereignty questions to be left in abeyance. Set aside. Bucareli's act was to be disapproved of but not disavowed. If British Ministers agreed, then the Spanish Ambassador would step forward to sign the declaration. However, Masserano was still to insist that the agreement in no way harmed Spain's pre-existing rights to the archipelago. This overture arrived in Paris on January 10th. King Louis immediately granted his Ambassador, de Guines, full powers to negotiate. All the missives reached London on January 16th. France's Ambassador rushed them around to Masserano, who hesitated. Insisting that Harris's recall complicated the matter. So, Françés spoke to Rochford, who spoke to George III who ordered Harris's return to Madrid. Placated, Masserano consented to play the game.

On January 19th, 1770, Rochford met with the two Frenchmen. Hearing the proposal, he accepted the restoration of Port Egmont. However, disapproval was not sufficient. Bucareli's usurpation required disavowal. Spain's reservation of right was another sticking point as neither side wished to make any concession that could compromise a future discussion. A solution did present itself however. Spain would make a reservation to the effect that the question of right remained unresolved. Britain would ignore it. No acknowledgement. Complete disregard. Scorned.

Agreement was reached and Masserano, in an adjacent room throughout, informed. He drew up a Declaration and presented it to Lord Rochford the next day, January 21st, 1771. At the last minute, Rochford demanded a final change. Unhappy with the wording of Spain's reservation, Rochford insisted that reference to "*anterior rights of His Catholic Majesty to the islands*" be reworded to; "*... cannot nor ought any wise to affect the question of the prior right of sovereignty.*" Masserano accepted and the Declaration was re-presented on the 22nd signed by the Ambassador. Rochford, with George III's assent, then drew up, signed and presented England's Acceptance. Britain's Counter-Declaration. Both terms were in use during those negotiations with all original documents in the diplomatic language of the time, French.

In the 20th century, thousands of column inches have attempted to reinterpret this convention. There is really no argument. The accord's sole purpose was to return the situation in the Falklands to that which existed before June 1770. Britain on West Falkland (Gran Malouine) and Spain on East Falkland (Soledad). Questions of sovereignty were to be set aside for a future discussion. A discussion that Spain and England would never have.

SPANISH DECLARATION

"His Britannick Majesty having complained of the violence which was committed on the 10th of June, 1770, at the island commonly called Great Malouine, and by the English Falkland's Island, in obliging, by force, the commander and subjects of his Britannik Majesty to evacuate the port by them called Egmont; a step offensive to the honour of his Crown;- the Prince de Maserano, Ambassador Extraordinary of his Catholick Majesty, has received orders to declare, and declares, that his Catholick Majesty, considering the desire with which he is animated for peace, and for the maintenance of good harmony with his Britannick Majesty, and reflecting that this event might interrupt it, has seen with displeasure this expedition tending to disturb it; and in the persuasion in which he is of the reciprocity of sentiments of his Britannick Majesty, and of its being far from his intention to authorise any thing that might disturb the good understanding between the two Courts, his Catholick Majesty does disavow the said violent enterprize, – and, in consequence, the Prince de Maserano declares, that his Catholick Majesty engages to give immediate orders, that things shall be restored in the Great Malouine at the port called Egmont, precisely to the state in which they were before the 10th of June, 1770: For which purpose his Catholick Majesty will give orders to one of his Officers, to deliver up to the Officer authorised by his Britannick Majesty the port and fort called Egmont, with all the artillery, stores, and effects of his Britannick Majesty and his subjects which were at that place the day above named, agreeable to the inventory which has been made of them.

The Prince of Masseran declares, at the same time, in the name of the King his master, that the engagement of his said Catholic Majesty, to restore to his British Majesty the possession of the port and fort called Egmont, cannot nor ought any wise to affect the question of the prior right of sovereignty of the Malouine islands, otherwise called Falkland Islands. [52]

In witness whereof, I the under-written Ambassador Extraordinary have signed the present declaration with my usual signature, and caused it to be sealed with our arms. London, the 22nd day of January, 1771." (L.S.) (Signé) "LE PRINCE DE MASSERAN."

52 In the original French, this penultimate sentence reads – *"Le Prince de Masserano déclare en même tems, au nom du Roi son Maître, que l'engagement de Sa-dite Majesté Catholique de restituer à S M. Britannique la possession du Fort et Port appellé Egmont, ne peut ni ne doit nullement affecter la question de droit antérieur de Souveraineté des Isles Malouines, autrement dites Falckland."*

ACCEPTANCE

"His Catholick Majesty having authorised the Prince of Maserano, his Ambassador Extraordinary, to offer, in his Majesty's name, to the King of Great Britain, a satisfaction for the injury done to his Britannick Majesty by dispossessing him of the port and fort of Port Egmont; and the said Ambassador having this day signed a declaration, which he has just delivered to me, expressing therein, that his Catholick Majesty, being desirous to restore the good harmony and friendship which before subsisted between the two Crowns, does disavow the expedition against Port Egmont, in which force has been used against his Britannick Majesty's possessions, commander and subjects; and does also engage, that all things shall be immediately restored to the precise situation in which they stood before the 10th of June 1770; and his Catholick Majesty shall give orders, in consequence, to one of his Officers to deliver up to the Officer authorised by his Britannick Majesty, the port and fort of Port Egmont, and also all his Britannick Majesty's artillery, stores and effects, as well as those of his subjects, according to the inventory which has been made of them.

And the said Ambassador having moreover engaged, in his Catholick Majesty's name, that what is contained in the said declaration shall be carried into effect by his said Catholick Majesty, and that duplicates of his Catholick Majesty's orders to his officers shall be delivered into the hands of one of his Britannick Majesty's Principal Secretaries of State within six weeks; his said Britannick Majesty, in order to shew the same friendly disposition on his part, has authorised me to declare, that he will look upon the said declaration of the Prince de Maserano, together with the full performance of the said engagement on the part of his Catholick Majesty, as a satisfaction for the injury done to the Crown of Great Britain.

In witness whereof, I the under-written, one of his Britannick Majesty's Principal Secretaries of State, have signed these presents with my usual signature, and caused them to be sealed with our arms. London, the 22nd day of January, 1771. (L.S.) (Signé) "ROCHFORD." [53]

The convention was published in the London Gazette on January 29th, 1771.

In the immediate aftermath, the merits of the deal were much debated in England although there was no such discussion in Spain. No reaction there. Nothing. According to Secretary Harris, there were no announcements. Nothing in the journals. It was not politic for the Spanish people to know about Carlos's loss of face. Documents relating to the embarrassment were buried deep. As later researchers would learn.

53 This English translation from – *A Collection of All the Treaties of Peace, Alliance and Commerce, between Great-Britain and Other Powers: From 1754 to 1784* by Charles Jenkinson, Earl of Liverpool, 1785. A French copy of the original can be found in *Recueil de Traites d'Alliance, de Paix, de Treve, de Neutralité, de commerce, de limites, d'échange etc. et de plusieurs autres actes servant à la connaissance des relations étrangères des Puiffan e es et états de Europe ... Despuis 1761 jusqu'à présent* F. de Martens vol.2 1771-1779 published 1817

"They keep the declaration here as secret as possible. I do not find any to whom they have shown it, except those to whom they are obliged to communicate it. They also report that we have given a verbal assurance to evacuate Falkland's Island in the space of two months." [54]

On February 18th, Grimaldi instructed Masserano not to press for disarmament. Carlos wished to see what action the British would take first as news of North's lack of interest had reached Madrid. Three days later Masserano received a copy of an order, signed by King Carlos, for the restitution of West Falkland. Speaking to Rochford, Spain's Ambassador told him of the earlier instruction to withdraw the Spanish garrison from Egmont. Port Egmont was, at that time, uninhabited. Rochford asked about Spain's ratification of the convention. Masserano could offer nothing but his copy of the order for restitution. In the circumstances, Rochford decided that would be sufficient. All that remained was for Britain to be restored to its possession. After that, Britain would consider the matter to be at an end. Masserano disagreed. He argued that question of sovereignty and mutual abandonment remained untouched. Rochford insisted that restitution would have to come first. How was a problem. Spain proposed that a ceremony could take place at Puerto Soledad, attended by the Spanish governor. Rochford, seeing the trap, demanded that the handover take place at Port Egmont. Scene of the injury. A brief stand-off ensued before Rochford pointed out that, with a return to the pre-1770 position, any British officer finding the Spanish at Port Soledad, would be obligated to give them six months to leave. Spain's Ambassador backed down. Instructions were sent out.

"His Majesty has been pleased to order the Juno frigate of thirty-two guns, the Hound sloop, and Florida store-ship, to be prepared to go to Port Egmont, in order to receive the possession from the Spanish commander there; ... I think it right to acquaint you, that the Spanish ambassador pressed me to have some hopes given him of our agreeing to a mutual abandoning of Falkland's Islands, to which I replied, that it was impossible for me to enter on that subject with him, as the restitution must precede every discourse relating to those islands." [55]

With war seemingly avoided, preparations for conflict needed to be wound down. Not as easy as it sounds, as each side needed to ensure that they did not move in such a way as to put themselves at a disadvantage. On this occasion, neither Britain, Spain or France appeared to be in any hurry to reduce their war footing. Britain's Parliament was unhappy with the agreement however, and rumours of some secret accord started circulating in early March, 1771. France's Ambassador de Guines reported this gossip on March 16th, 1771.

54 *Diaries and Correspondence of James Harris, First Earl of Malmesbury* 1845 vol.1 J. Harris 1845 p.66.
55 *Rochford to Harris* March 8, 1771

"... the English ministers (are) announcing that, immediately after the return of the vessels to retake possession of the Falkland Islands, their first care would be to send the order to abandon them." [56]

No Ministers. No announcement. Words that would return to haunt de Guines, who would later be accused of using rumour to play the 'Alley' (Stock Market) to his advantage.[57] By the time this information reached Madrid, it had become a 'promise'. A straw to be grasped at. *Hound* sailed on April 2nd, 1771, commanded by Capt. Stott; arriving September 13th after a longer than expected voyage. On arrival Stott found a junior Spanish officer, Lieut. Francisco de Orduna, and a single Spanish flag flying on the hill above Jasons Town. No iron cross. Spain had withdrawn its mark of sovereignty before Stott arrived. An acknowledgement that another was absolute in that place. Formal restitution took place three days later at Port Egmont. Spain's flag was lowered and Britain's Union Flag returned to flutter over Fort George. Governor Puentes did not attend. Orduna made no reservation.

"On Monday, the 16th of September, I landed, followed by a party of marines, and was received by the Spanish officer, who formally restored me the possession; on which I caused his Majesty's colours to be hoisted and the marines to fire three volleys, and the Juno five guns, and was congratulated, as were the officers with me, by the Spanish officer, with great cordiality on the occasion. … I have only to add, that this transaction was effected with the greatest appearance of good faith, without the least claim or reserve being made by the Spanish officer in behalf of his Court." [58]

"On Monday 16th September Capt. Stott landed, followed by Party of Marines, and was received by the Spanish Officer, who formally restored him Falklands Island, Port Egmont, its Fort and other Dependencies, giving him the same Possession as His Majesty had before the 10th of June 1770." [59]

Stott remained until September 30th. On sailing, he left behind a garrison which consisted of Capt. Burr as Military Administrator, 50 seamen, and 20 marines. Those stores seized by Madariaga in June 1770 were finally signed over to Burr on October 27th, 1771. Spain's only complaint was that Stott had not awaited their arrival himself. Hardly surprising as the Captain had found himself facing a junior Spanish officer. Stott, who had taken five months to get to the archipelago, returned to England in 70 days; something of a record. With Port Egmont restored, only two questions remained. The suggestion of a mutual evacuation, as first proposed by Grimaldi, and that regarding sovereignty.

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56 *"Que les ministres anglais annonant qu'immediatement apres le retour des vaisseaux charges de reprendre possession des Isles Falkland, leur premier soin sera d'envoyer l'ordre de les abandonner"* quoted in *Lord Chatham and the Whig Opposition* D. A. W. Winstanley 1912 p.409

57 *Perreaus and Mrs. Rudd: Forgery and Betrayal in Eighteenth Century London* D. T. Andrew 2001

58 *Capt. Stott to the Admiralty aboard Juno, Plymouth,* 9 December, 1771

59 *The London Gazette* No. 11204

Strangely, neither were pursued. Having already lost face, Spain's King did not wish his embarrassment increased further. He would await Britain's fulfilment of its 'secret promise'. Masserano's assertions that Britain had made no promise, were ignored.

However, France's new Foreign Minister, the Duke d'Aiguillon, took up the claim with Colonel John Blaquiere in November and December, 1771. Demanding to know why England had not kept to its guarantee. Rochford responded on December 27th, 1771 with a message that Spain had not received any assurances of abandonment and that he would have considered any such pledge as dishonourable. [60]

> *"... the Hints Spain presumes to throw out relative to Falklands Island are injurious to The King's Ministers, and more particularly to me. The assertion that there was a Tacit Convention is absolutely false. I frequently dared the Spanish Ambassador, when he was here, to declare if any One had ever given him any such Promise, and, to do him justice, he constantly declared that no such promise had in shape whatever been made to him, ..."* [61]

In the end, de Guines, no longer Ambassador, was summoned to identify which Minister had given the assurances of British abandonment. To d'Aiguillon's chagrin, de Guines confirmed that he had reported nothing but rumour.

> *"., I have taken an opportunity of seeing M. Le Comte de Guines, and have acquainted him with the necessity you might possibly be under, of mentioning in the House of Lords, what he had said to me upon that subject, viz. That he was ready to publish to all Europe, in the most explicit terms, that you never told him, either ministerially, or otherwise, that when Falklands Island was restored to us, and the honour of the Nation saved, our intention was to evacuate it, either immediately or at a given time. When I translated the words to him literally he answered that nothing was more true and in his Dispatch of 16th March, 1771, in representing to his Court, that he had reason to presume we should abandon Falklands Island, from the Language held to him by different Persons on that subject, he had particularly said a l'exception de My Lord Rochford. M. de Guines is clear, and precise in regard to this Circumstance, ..."* [62]

60 *Rochford to Blaquiere* December 27, 1771 in *SP 78/283* at *301*
61 *Rochford to St. Paul* November 19, 1773 in *SP 78/290* at *86*
62 *St. Paul to Rochford* May 17, 1775 in *SP 78/296/37*. Original emphasis.

4

Recall

"But previous to your departure from the Falkland Islands, you are to take the strictest care to erect on the principle parts on the Port, Fort and islands proper Signals and Marks of Possession, and on its belonging to His Majesty." [63]

Neither Spain, France nor Britain disarmed. Recommissioning ships was costly enough without mothballing them again within months. In any case, each had other problems to contend with. Britain, in particular, was encountering dissension in its thirteen colonies of North America. Taxation was the problem, and Lord North needed to divert funds to deal with rebellion. Reviews of spending took place across the board. That by the Admiralty, in February 1772, estimated the cost of maintaining the Egmont garrison at £3,552 per annum. Without any obvious short-term advantage.

> *"We are at a loss to suggest any plan by which the possession of the port and fort of Port Egmont and the islands of Falkland may be constantly and effectually kept up even at any expense; but we are of opinion that a smaller number of men than those now employed will equally maintain a mark of possession ..."* [64]

A first decision was to reduce the size of the garrison to five officers, 18 petty officers and sailors and 23 rifle marines. To be commanded by a lieutenant. The warship to be replaced by a pre-fabricated shallop which was transported to the islands on Cook's old command, *Endeavour*, in December 1772.

Thomas Kitchin (London) (detail) 1772

63 Quoted in *The Sovereignty Dispute over the Falkland (Malvinas) Islands* L. S. Gustafson 1988 p.19
64 *Calendar of Home Office Papers of the reign of George III* 1881 p.437

A year later, as Spain was not pursuing a discussion about sovereignty, the Admiralty's verdict was that the garrison could be recalled completely without any threat to Britain's sovereignty. Spain was itself in the throws of reorganisation to save money and had seemingly forgotten its argument with England.

On January 5th, 1774, Ruiz Puentes's replacement, Gil y Lemos, arrived at Puerto Soledad. The new Governor was no more impressed with his posting than the old, but he did see a way out. Gil y Lemos proposed a plan which called for the permanent garrison to be replaced by a rotating naval command. Two frigates operating out of Montevideo. One stationed at Puerto Soledad for twelve months, while the other acted as a supply ship and support in case of need. Whichever ship was at Soledad, that crew would act as the garrison. Its captain taking on the dual role of commander and governor (*comandante-gobernador*). Every year the two frigates would switch places. The merits were quickly seen by Madrid which approved the arrangement on August 30th, 1774, but delayed implementation. Grimaldi had heard of Britain's intended withdrawal, but needed confirmation before reducing his garrison. Lord Rochford had mentioned it to Masserano in early February 1774. Then confirmed, unofficially, through Britain's envoy in Madrid.

> *"... it was decided to withdraw the few people who had remained in Falckland (sic);... it was the effect of an economic system that they had adopted:... that they did not consider that Ysla less: that perhaps it could be required in some storm by some English ship that was going to circumnavigate the world to touch on it:... that he (Rochford) hoped that Spain would not use this warning for a return to seize that land, which could cause displeasure no less strong than the past."* [65]

> *"I think it proper to acquaint Your Excellency that Lord North in a Speech ... hinted, as a matter of small consequence, that, in order to avoid the expense of keeping any seamen or marines at Falkland's Island, they would be brought away, after leaving there the proper marks or signals of possession, and of its belonging to the Crown of Great Britain. … it is only a private regulation with regard to our own convenience; yet I am inclined to think from what passed formerly on this Subject that they (Spain) will be rather pleased at this Event, ... it is neither more nor less than a small part of an economical naval regulation..."* [66]

The caveats were, however, a cause for concern. Not the abandonment of sovereignty that the Spanish had believed would result from the believed secret promise. Gil y Lemos was informed of the intended withdrawal but cautioned to be careful. To observe only and then covertly. Spain could not afford another embarrassment.

Gil y Lemos did as he was told; ordering reconnaissance from a distance using overland routes. Not an easy task with the Falklands' terrain. Observers were to remain hidden;

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65 *Escarano a Grimaldi: 11 de Febrero de 1774* in *A.G.I., Indif. General, 413, 60*. Escarano was Spain's *charge d'affairs* in London.

66 *Rochford to Grantham* February 11, 1774 in *CO 78/1*

making sure not to take any action that could draw attention to their presence. If seen, they were to hand over a letter, provided by Spain's Governor, confirming that they were only in the vicinity of Port Egmont in a hunt for deserters. [67]

> *"... you may consequently observe, with due prudence and caution, whether the English do, in fact, abandon the said settlement without undertaking to form any other in the immediate vicinity; and that, having ascertained that they have done that ..., (you) are not to deviate from the letter of the instructions I now give you; nor allow any one to proceed to the said relinquished settlement, except those whom you send for the purpose..."* [68]

Marks & Signs

The task of retrieving the Egmont garrison was given to Capt. George Gordon (*Endeavour*), who sailed from the Downs on January 30th, 1774. He arrived off Jasons Town on April 23rd. Britain's garrison departed Port Egmont on May 21st, 1774, the day after a ceremony to confirm British sovereignty. Marks and signs were important back then, so flags were flown and Britain's title etched onto a lead plate. That was nailed, prominently, to the door of Fort George for all to see and understand.

> *Be it known to all Nations, That Falkland's Island with this Fort, the Storehouses, Wharfs Harbours, Bays and Creeks thereunto belonging, are the sole Right and Property of his Most Sacred Majesty George the third, King of Great Britain, France and Ireland, Defender of the Faith, etc. In Witness whereof this Plate is set up and his Britanick Majesty's Colours left flying as a mark of possession by S. W. Clayton, commanding officer at Falkland's Island. 1774 A.D.* [69]

> *"They left a large Quantity of Stores at Port Egmont, besides Spars for Masts and Yards, with two or three large Boats, and Colours flying at the Block-House, and at the Entrance of the Harbour, on a high hill."* [70]

Rather quickly, 'Falklands Island' singular would suffer from both repetition and translation errors to become 'Falklands Islands' plural. The question then must concern quite what was being claimed. Charts often employed both names written across the main islands, but

67 *Instrucción que debe observar el 2° piloto de la Real Armada y capitán de este puerto don Simón Fernández Pellón en la expedición que va a ejecutar por tierra desde el Estrecho de San Carlos hasta el Puerto Egmont en la colonia inglesa. Francisco Gil y Lemos, Puerto de la Soledad, 5 de noviembre de 1774* in *AGI, BA, 553*

68 *Don Juan de Arriaga to the Governor of the Malvinas* April 9, 1774 reproduced in Minister Moreno's *Memoria and Protest to Viscount Palmerston* June 17, 1833 in *FO 6/501*

69 *FO 78/1/7*. Also Clayton's report in *ADM 1/1610* (NB. the British Crown only dropped its ancient claim to the throne of France in 1800). The wording on the lead plate, according to the *Derby Mercury* of September 16, 1774 (and repeated in near a dozen journals), referred to *"... the Falkland Islands..."* plural. This was inaccurate.

70 *Derby Mercury* September 16, 1774

there was little cartographic consistency. This leaves Clayton's words unclear. His orders do not appear to have survived but it seems likely that, had there been a discussion with Spain on the question of sovereignty, London would have argued for the whole group. With no discussion having taken place, perhaps *Falkland's Island* on Clayton's plate was merely recognition of the *de facto* reality on the ground. Britain on Gran Malouine as referred to in the 1771 convention. Britain in the west. Spain in the east.

Notably, on the day that *Endeavour* sailed away, two whaling ships arrived. Their crews moved straight into the empty houses of Jasons Town. So it was that when Spain's first covert reconnaissance of Egmont harbour took place that November, the observers saw activity. The moored ship in the harbour assumed to be an armed frigate of the Royal Navy. Gil y Lemos reported back to Madrid that the British had, after all, not left. A second surveillance team reported Port Egmont occupied in March 1775; that information sent to Spain on July 31st. [71] Whalers mistaken for the Royal Navy. In fact, Britain's navy was busy elsewhere; George III declaring his American colonies to be in revolt on August 23rd, 1775.

So it was that Spanish timidity deferred confirmation of the Egmont evacuation until January 24th, 1776. On that day, Juan Pascual Callejas sailed *San Francisco de Paula* into the harbour to find it empty of ships and Jasons Town deserted. A month earlier, he would have found a whaling fleet from New England. Whalers, organised by Aaron Lopez and Francis Rotch and operating under licence from the British Government. Rotch, an American loyalist and scion of a shipping family had grown disenchanted with his countrymen following an incident in December 1773. One of his ships, the *Dartmouth*, had lost a cargo of tea in Boston Harbour. Not as big an event at the time as it would become to history. Whaling appeared to offer a safer route to riches. How many of the Rotch/Lopez fleet rendezvoused at Port Egmont in December 1775 is uncertain. Seventeen were made ready, but not all sailed at the same time. En-route, at least 5 were seized and their crews pressed. Those that did make the rendezvous soon dispersed to hunt, which is why Callejas found the harbour empty. He did see the marks and signs of British sovereignty. Perhaps little remained of the flags, but the lead plate was still on the blockhouse door. In an act of petty theft, Callejas stole it.

Madrid received word of the plate in March 1776, but the wording did not result in a protest to London. At much the same time, Ambassador Masserano was reporting on the British whaling fleet leaving for the South Atlantic. Seeing an economic opportunity, Britain extended a North Atlantic bounty system to a new Southern Fishery. Whalers were keen. Safer too. Above the equator, their ships were caught between the Royal Navy and US privateers. Better then to sit the war out on the far side of the globe.

> *"The coasts of these islands abound with whales of the spermaceti kind; the islands with innumerable seals and sea-lions, from whence a valuable fishery might, if thought proper, be*

71 *Catalogo de Documentos del Archivo de Indias en Serville referentes a la Historia de la Republica Argentina 1514 – 1810* 1910 vol.2 p.237

carried on. The passage out is twelve weeks; the same home. Ships might be loaded with oil ready made, in six and eight weeks, and the price of that article greatly reduced." [72]

Callejas's January inspection was followed by another in March 1776. On that occasion, Pilot José de la Peña found a ship in the harbour, but his orders were to observe, not challenge. So he watched for five days. After resupplying at Puerto Soledad, he returned and watched for a further seven days. No challenge. No conversation. Only after the ship had left, did the Spanish pilot feel confident enough to inspect Saunders Island. There he found a supply of timber. Jasons Town was being maintained. Undoubtedly, again, the ship was a whaler. It may have been one of three that had left London in early January – *Abigail*, *Enterprize,* or the appropriately named *Falkland*.

News of the licence negotiated by Rotch with the British Government circulated. It was enough to protect his vessels from seizure by the Royal Navy and applied to *Jacob* (Matthew Cornell); *Africa* (Joseph Ripley); *Cleopatra* (James Fitch); *Lydia* (Thomas Folger); *Charlotte* (John Woodman); *Ann* (John Darling); *Fox* (Silas Butler); *George* (George Whippey); *Mermaid* (Lokbury Blackman); *Minerva* (Ephraim Pease); *Dartmouth* (Peter Pease); *Delight* (Benjamin Norton); *Nelly* (William Norton); and *Royal Charlotte* (Nathaniel Hathaway). All hunted the South Atlantic with Port Egmont as their preferred place of refuge and rendezvous. In London, Masserano's continuing complaints of encroachment into 'Spanish seas', were ignored. Neither his humour, nor his gout, were likely to have improved when, in April 1776, an MP in the House of Commons suggested that Falklands Isle become a penal colony.

Spain's reorganisation of its colonies had also progressed by 1776. The Governorship of Buenos Aires was cut away from the Viceroyalty of Peru to create a new Viceroyalty – of the Rio de la Plata (Silver River). An appropriate juncture for the implementation of the Gil y Lemos plan for Soledad. Reduced in status from *Gobernacion* to a *Comandancia-Gobernacion*. Dependant upon the new Viceroyalty. Also the time for a renewal of instructions calling for a continued, but cautious, vigilance over West Falkland and Port Egmont.

> *"... His Majesty has resolved on the idea that two Frigates, destined for the protection of the Rio de la Plata and for the conservation of the Maluinas, … one of them must continually at all times, be present in that colony with two Zumacas, or Brigantines, when it is considered convenient, and as appropriate they shall travel cautiously and stealthily the coast and ports to observe what may occur, and to make sure (that) the English do not actually return to the old establishment.* [73]

Caution and stealth are no evidence of confident sovereignty. Port Egmont was next visited in April 1777 by Pablo Sisur. He found no ships but plenty of evidence of recent use. Most

72 William Clayton reading his Journal to the Royal Society, January 1, 1766 quoted in the *Caledonian Mercury* August 6, 1776

73 *Joseph de Galvez to the Governor of Buenos Aires* August 9, 1776

likely by the Rotch whalers *Francis*, *Flora* and *Nancy*, that had left England for the archipelago in November 1776. Other English whalers hunting around the islands at that time were *America*, *Abigail* and *Egmont* (George Hayley) *Enterprise* and *Falkland* (Barclay & Co.). Also *Beaver* (Harrison & Co.). There were also signs of another trade. In January 1775, an American ship had sailed into Canton, China and sold 13,000 seal skins from the Falklands at $5 each. [74] Whale oil and seal skins would be a profitable combination.

Deterrence

Spain found itself in a quandary. Foreigners were exploiting the archipelago with impunity, but any action would draw attention. When Rochford informed Grimaldi that he was recalling Egmont's garrison, it is likely that he expected Spain to follow. After all, Masserano's attitude had been consistent. The islands were worthless. He made off-hand complaints about the whalers, but did not mention that Soledad was still garrisoned. No wish to be seen to be too interested. That could also draw attention. Then there was the complication of peace. A relatively unusual event in Anglo-Spanish relations during that period. It would not last and eventually Madrid's secret supply of arms to the Thirteen Colonies would become known. That there would be another breach was inevitable, the only question was when. So, in the short term, any overt attack on Britain's commercial interests in the South Atlantic was guaranteed to start a war that Spain was not yet ready for. So Spain opted for covert operations instead. The result, in June 1777, was a message from Madrid to Buenos Aires ordering deterrent action against whalers and sealers found around the Falklands. It was not an order to attack Jasons Town or Fort George.

> *"... it was inferred by our Court that some American colonists, or other unknown private individuals, without the knowledge of the English Ministry (as they assured us) looked to establish themselves in a permanent fashion; for this the King commanded by his Royal Orders of June 30 1777 to repeat the reconnaissance with normal precautions, and when the subject carrying out the commission has assured himself that there are no inhabitants there, or people from any nation, he should proceed to burn all the buildings which have been started or finished, doing the same with all the materials which have been gathered there..., which with luck, on the return of the people who have left them there.., their permanent settling will be put back or made impossible."* [75]

Covert. Slink in, destroy, slink out. Yet again, not the actions of a confident sovereign power. Six years after removing its own marks and signs of sovereignty from Saunders Island, Spain was still sneaking around like a thief in the night.

74 *The War against the Seals: A History of the North American Seal Fishery* Briton Cooper Busch 1985

75 *Memoria de Gobierno Presentada al Marques de Loreto por un Antecesor el Virey de Buenos Aires D. Juan Jose de Vertiz 1784* in *Revista del Rio de la Plata* 1871 vol.2

June 1778 saw the arrival in Buenos Aires of Joseph de Vértiz y Salcedo Aires as Viceroy. An old Governor, Vértiz viewed the Soledad garrison as a nuisance. A drain on his resources. An unnecessary expense that he proposed move to Port Egmont in an attempt to reduce costs. Covert reconnaissance would hardly be necessary if Spain's own garrison occupied the British site. A recommendation immediately dismissed by Madrid without explanation. He would not be the only Viceroy to make such a proposal.[76] Rejected on each occasion without further comment by Madrid. So, Vértiz made what cuts he could with the regular reconnaissance voyage being the first to go. Spain needed its resources for the inevitable conflict.

War broke out when Spain openly joined France to back the North American revolution on June 21st, 1779. Madrid's first act in support of the revolutionaries was to besiege Gibraltar. Not very likely to assist the Yankees, but it seemed the thing to do. Spanish support for a revolt against monarchy was problematic. Its own colonies might get the same idea. Better then to support its ally, France, while maintaining some distance. Viceroy Vértiz could achieve little from Buenos Aires. Too far away to do anything other than carry out the only war-time Royal Order for military action that he received. Issued on October 22nd, 1779 that order called for the destruction of Britain's facilities at Port Egmont. To deny its possible use against Spain's South American colonies. Not that the Soledad garrison had a ship available. No ship at all in fact and raising the garrison's status to that of *presidio* (frontier fortress) in January 1780 did not help. Soledad was still without its frigate, which had been reassigned to protect the Rio de la Plata. Vértiz, therefore, handed the task to one of his own warships, the *Nuestra Senora del Rosario*. Madrid's order was clear. British facilities at Egmont were to be razed to the ground. Crystal clear, but Vértiz's instructions still contained a note of caution.

> *"By virtue of this order, ... and having already declared war with England, I dispatched the pilot in the Royal Navy, Don Juan Pascual Calleja, so that, with the utmost precaution and reserve, he should proceed to the reconnaissance of Port Egmont and, (if) finding no superior force on arrival and (if when he) went down to the land, he saw that the English had left, immediately move to destroy the wooden keep, warehouses, barracks, hospital, ovens, and every building he found standing, burning the woods and rendering impossible what he found capable of any service, ..."* [77]

Yet again, slink in, destroy, slink out. It was to be a wartime raid, not an act of sovereignty.

Spanish forces, under the command of Juan Pascual Callejas did as ordered between March 17th and 25th, 1780. Making sketches of Fort George and Jasons Town before levelling them. An act of war, completely unnoticed in England. Quite what was left for the Spanish to raze is not known. What little wood remained unrotted was burned. The brick-built

76 The move was suggested again in June, 1787. Rejected curtly on April 28th, 1788.

77 Viceroy Vértiz quoted in *De Quesada a Bayard, 4 de Mayo de 1887* in *Memoria de Relaciones Exteriores presentada al Honorable Congreso Nacional en 1887* Buenos Aires, 1887 pp.201-278

buildings in Jasons Town knocked over. It seems unlikely that the Spaniards could do much worse than sixteen years of South Atlantic weather, but orders were orders.

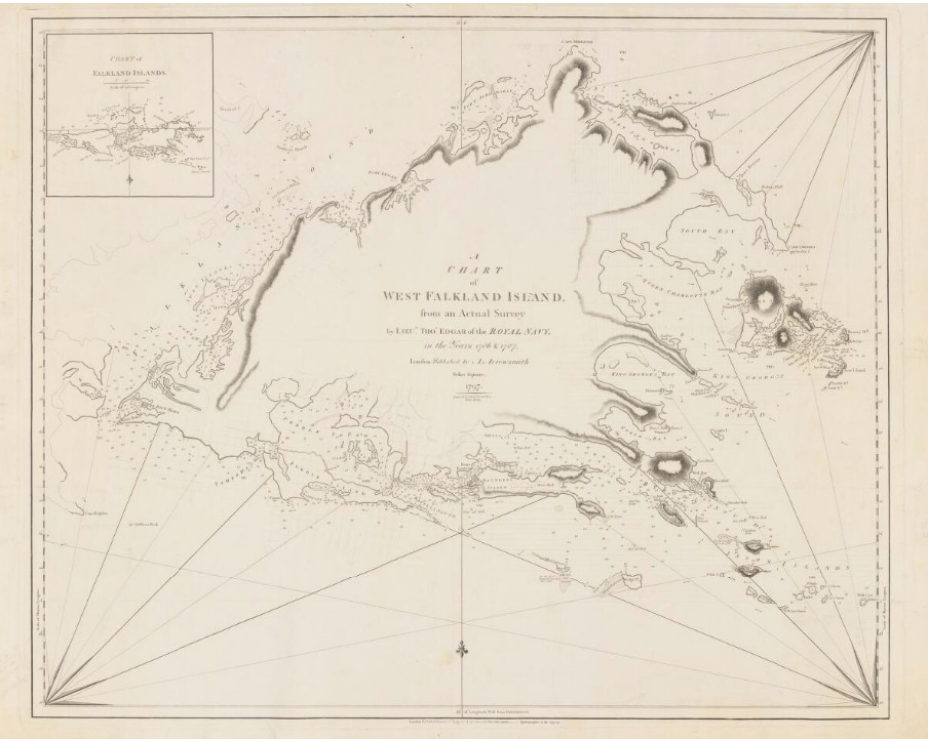
Saunders Island with Jasons Town & Fort George 1780 attributed to Juan Pascal Callejas

One fanciful modern argument has it that Britain's failure to protest this act of war amounted to recognition of Spanish sovereignty. Bizarre and absurd. Warfare does not generally facilitate complaints about damage caused by one or other of the combatants. In war, destruction seems de rigueur. Not that Callejas left any indication that the destruction was an act of Spain. No flags. No iron crosses. No marks of sovereignty. No notes. No plates. Before approaching, Callejas had also ensured that there were no witnesses. As though he felt embarrassed by the whole thing. He slunk in and slunk back out again. Reporting the success of the raid, Viceroy Vértiz suggested that Soledad be abandoned. To save money. A suggestion as emphatically rejected on June 26th, 1780, as his suggestion for relocation. Spain did not wish Britain to see Soledad derelict and abandoned.

Further Spanish surveillance of Egmont harbour took place in September 1781, May 1782 and January 1783 before peace returned later that year. A peace that released pressed crews for the whale and seal fisheries. Had there been a Spanish reconnaissance of Egmont in 1784 and 1785; they would have found a fresh population around the harbour. While British whalers opted for Egmont as a base, those from the USA chose New Island in the north-west of the archipelago. There was another change too. Old practices had proven inefficient, seeing ships return home with half-empty holds. A new idea involved one ship operating as a storage resource for the fleets. Those wishing to go home could top up their loads from that facility. Transshipping. Two English ships were notable for performing this function, *Audacious* and *United States*. Both were regularly based in Egmont harbour. For up to two years at a time.

Often without a ship available to it, Soledad's garrison was isolated. Much of its news coming from those few whalers who stopped off in Berkeley Sound. Some reports found their way back, however, and in May 1785, a new Viceroy, Nicolás Francisco Cristóbal del Campo, Marquis of Loreto, wrote from Buenos Aires regarding a; "*... considerable number of English and Bostonians frequenting those (southern) seas under the pretext of whale fishing, possible with hidden intentions,...*"

One of these was *Hope*, commanded by Thomas Edgar, on leave from the Royal Navy. Naval lieutenant, whaler, sealer and cartographer. Following his arrival at the archipelago, he dispersed sealing crews before setting out to survey West Falkland.



A Chart of West Falkland Island from an Actual Survey by Lieu. Thom. Edgar of the Royal Navy in the Years 1786 and 1787 (London) published 1797. North is down.

Edgar was not alone. On January 5th, 1786, two British ships, *King George* and *Queen Charlotte,* sailed into Port Egmont. Captains Portlock and Dixon were there to survey the harbour. Joined by a tender from the transshipping whaler *United States* which, despite its name, was licensed out of London. Large numbers of American whalers and sealers were operating around the Falklands. Loreto's report was confirmed by Madrid's agents in New York. British broadsheets also carried similar accounts and noting the financial gains to be made.

"Amount of Oil produced from the Southern Whale Fishery from 1777 to 1785 Inclusive: 2485 Tons at £40 Ton on an average – £151,585. Bounties paid for 9 years – £16,000 near 10 percent." [78]

These reports motivated Madrid to issue new instructions requiring the destruction of any temporary buildings and shelters found in the islands. Acknowledged by the Viceroy in November 1786. [79] Loreto delegated Capitan Ramón de Clairac y Villalonga to see to it. With conditions.

"... go to Port Egmont, ... ensuring its reconnaissance, with the customary precautions, if no vessel is found with crew... to do the diligent deed with no witnesses, who can record. ... Your Grace should go ashore, and make sure that there are no inhabitants nor passengers of any nation, you will then proceed to destroy all buildings of all types which you find finished, or started or existing in any form, even vestiges, do the same with materials which you may be lucky to find, in this way making useless all that exists ... (that has) the purpose of shelter against the weather,.. this should make it more difficult for them... As Your Grace has been informed, that if such establishments or ranches have not been abandoned, you must not try to extend your diligence any further, except to perfect reconnaissance: this is what the Royal Orders demand, and which direct that all such operations be carried out without witnesses, evading being recorded, (there may be) consequences between the Courts and even that they may adventure a resistance, it is clear Your Grace, that to expel by force, different dispositions must be taken,.." [80]

As before. Slink in, slink out. No confrontation. No witnesses. Britain could not be given cause for complaint. However, without a ship, nothing could be organised until March 1787. On the 6th, Lt. Pedro de Mesa sailed into Port Egmont to find a sealer, *Diana*, at anchor. In compliance with his orders, the Spanish lieutenant lied; informing the master that he was hunting for a lost boat. A fabrication to explain the presence of a Spanish ship in British waters. De Mesa did report that he had informed Diana's pilot 'gently' that existing treaties prohibited ships from frequenting those seas, "*... to which he replied, that he believed that the prohibition was only applicable to Puerto San Luis...*" [81]

Surprisingly, Lt. de Mesa did not report seeing *Audacious*. The transshipping vessel that had anchored at Port Egmont two months before. This is perplexing, as *Audacious* remained there for three years. Whalers and sealers from London in early 1787 included: *Spencer* (Capt. Owen Bunker); *Ranger* (Capt. Matthew Swain); *Fox* (Capt. Ransom Jones); *Waterford Packet* (Capt. Francis Barrett); *Lucas* (Capt. Paul Coffin); *Dolphin* (Capt. William Swain); *Ann Delicia* (Capt. Timothy Fitch) and *London* (Capt. Joshua Coffin).[82]

78 *Kentish Gazette* April 4, 1786.

79 *Viceroy Loreto to Pedro de Mesa* November 23, 1786 in *Biblioteca Virtual del Ministerio de Defensa*

80 *Nicolas del Campo a Pedro de Mesa* Noviembre 23, 1786 in *Biblioteca Virtual del Ministerio de Defensa Ref: BMDB201550132673*

81 *Report of Pedro de Masa* October 6, 1787 in *Biblioteca Virtual del Ministerio de Defensa Ref: BMDB20150132673*

82 *Ships Employed in the South Sea Whale Fishery from Britain: 1775-1815* J. Clayton 2014 p.93.

Nova Scotia's fishing fleet that year added – *Romulus* (Capt. Latham Chase); *Rachael* (Capt. Obed Barnard); *Lively* (Capt. Jonathon Chadwick); *Parr* (Capt. Tristam Folger); *Sally* (Capt. Paul Worth); *Watson* (Capt. Daniel Ray); *Argo* (Capt. Daniel Kelley); *Lucretia* (Capt. Jonathon Coffin); *Somerset* (Capt. Stephen Gardner); *Industry* (Capt. William Chadwick); *Hero* (Capt. Valentine Pease); *Hibernia* (Capt. Francis Coffin); *Jasper* (Capt. William Pinkham) and *Peggy* (Capt. Silas Paddock). [83] All in the South Atlantic.

In May 1787, Captain Don Ramón de Clairac took command of the Soledad garrison. Sailing out to conduct his own survey he did find *Audacious* (*Audaz*). Its captain was ordered to leave. Captain John Loveday paid no attention.

> *"**Question**. Was he not notified by me, on May 20, 87, when Audaz was anchored in the western bay of this island, that these seas and coasts were proper to Spanish rule, and that all nations abstained from to frequent them, except for some discovery? **Reply**. It was true that he had been notified, but that he had continued his fishing, by virtue of the license which he brought from his Parliament ..."* [84]

From the evidence, these challenges were rare and ignored. Ineffective occupation of a small site in Berkeley Sound, with rare access to a vessel, was no deterrent. Not to the dozens of whalers and sealers plying their bloody trade around the islands. Spain was impotent. After three years without challenge, transshipping whaler, *United States*, finally ended her long stay at the Falklands. She arrived in England on April 4th, 1788, with 25,000 gallons of oil.[85]

This uncontrolled exploitation of the South Atlantic fisheries fuelled indignation in Madrid. Made worse by an extension of sealing to the coasts of Patagonia. Spain was losing all vestiges of control. Losing money too, as Madrid realised. It is an old convention that, if you cannot beat them, join them, so Spain set up a fishing operation at Puerto Deseado. All that was then required was enforcement of the monopoly granted by Spain's King. In November 1788, Fernando Zambrano, found signs of activity at Egmont and other sites around West Falkland. While the sealers were away hunting, he quietly vandalised their supplies. Dumping their oil into the sea. Another sneak-attack. Another covert action to avoid any confrontation with Britain. These pin-pricks achieved nothing. Spain's dominance in the South American seas was long over. She just did not know it. On January 27th, 1789, Britain's Board of Trade reported that English ships hunting in the Southern Fishery included – *Astrea, Liberty, Lucy, Mary Anne, Sapho, Olive Branch, Barbara, Queen Charlotte, Swift, Gen. Elliot, Spencer, Jackall, Ulysses, Prince of Wales, Fox, Emilia, Kent, Greenwich, Friendship,*

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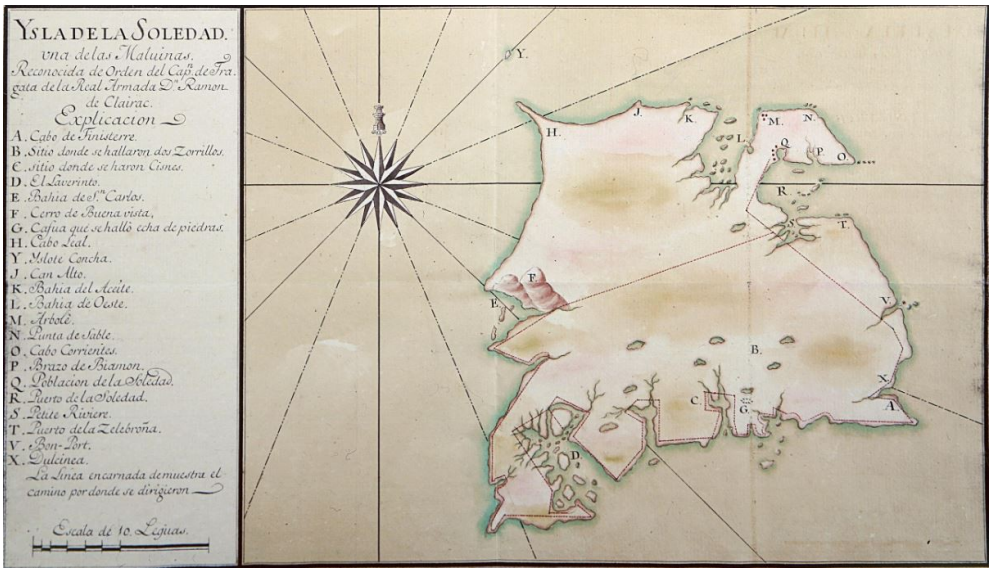
83 *Whales & Destiny: The Rivalry between America, France and Britain for Control of the Southern Whale Fishery, 1785-1825* 1972 E. A. Stackpole 1972 p.92

84 Interview with John Loveday, captain of *Audacious* on July 29, 1789 in *Archivo General de Indias, Estado, 80, N.1*

85 *Audacious* returned to England on May 4th, 1790, after an absence of 1,258 days. Most of them anchored in Port Egmont.

Adventure, Experiment, Mediator, Chasen, Good Intent, Ranger, Active, Stormont, Lucas, Lively, Friendship, Benjamin, Nimble, Queen, Harpy, Spy, Sandwich, Swift, Mercury, Elizabeth & Margaret, Lord Hawkesbury, Nancy, New Hope, Aurora, Minerva, Edward, Hero, Elizabeth, Southampton and *Argus*.


YSLA DE LA SOLEDAD.
una de las Maluinas.
Reconocida de Orden del Capn. de Fra.
gata de la Real Armada D. Ramon
de Clairac.
Explicacion
A. Cabo de Finisterre.
B. Sitio donde se hallaron dos Zorrillos.
C. Sitio donde se haron Cinco.
D. El Laverinto.
E. Bahia de S.t Carlos.
F. Cerro de Buena vista.
G. Cañua que se hallò echa de piedras.
H. Cabo Leal.
Y. Molote Concha.
J. Can Alto.
K. Bahia del Acite.
L. Bahia de Oeste.
M. Arbolè.
N. Punta de Sable.
O. Cabo Corrientes.
P. Brazo de Bramon.
Q. Poblacion de la Soledad.
R. Puerto de la Soledad.
S. Pute Riviere.
T. Puerto de la Zelebroña.
V. Bon-Port.
X. Dulcinea.
La Linea encarnada demuestra el
camino por donde se dirigieron
Escala de 10 Leguas.

1788 - *Ysla de la Soledad un de las maluinas. Reconocido de Orden del Capn. de Fragata de la Real Armada Dn. Ramon de Clairac*

Buenos Aires told Madrid that there was little that they could do to control the oil industry. Spanish ships were in short supply and those that were available had work enough. *Santa Elena*, out of Montevideo with supplies for Soledad had a dual role. It was also required to reconnoitre the coasts of Patagonia en-route. The commander was the experienced Don Ramón de Clairac, who was due another turn as *comandante-gobernador*. Clairac knew about avoiding a confrontation with the British in the western Falklands, but he had no such timidity along a coast that was undisputedly Spanish. Before Nootka, there was Deseado.

> *"I think it must give his Lordship (Hawkesbury) pleasure to see the Fishery he has patronised succeed so well under his Direction. His Lordship first took the Fishery under his Protection in 1785, the year prior to which sixteen Sail of Vessels had been employed in the South Whale Fishery, the value of the oil, etc. they brought have amounted to between 27 and £,28,000 for which Govt. paid 18% although the premiums were but £,1500 per annum. The number of vessels which returned from that fishery last year were 45 sail; the value of the oil, etc., amounted to £,90,599 for which Govt. have and will pay £,6,300 which is not 7% on the whole amount of the cargoes of oil, etc."* [86]

86 *Samuel Enderby to George Chalmers* January 17, 1789

5

From Desire to Nancy

"Strange, astonishing, unheard-of it is, Señor,... The English pretend that all South America is open to all nations, and that its territories shall belong to the first that desires to occupy them."[87]

Santa Elena sailed into Puerto Deseado (Port Desire) on April 4th, 1789. There she found British sealers *Sappho* and *Elizabeth & Margaret* hunting at an island a short distance from the estuary. Clairac challenged them which led to an exchange of letters recalling those traded by Madariaga and the British captains in 1770. Then Clairac ordered the sealers away – with menaces. Tough men, sealers were rarely intimidated, but on this occasion, they left. They were not much for complaining either, but following this they did. Why? Because little of the Patagonian coastline was occupied. By anyone. Sovereignty required settlement. Occupation. For the British and most other European nations. Spain did not see the need although there was a small Spanish settlement at Puerto Deseado at that time. The British ships sailed back to make their case anyway. Two months later on June 24th, 1789, and far, far away, a similar confrontation took place. At a place on the distant side of the North American continent called Nootka Sound. That encounter resulted in the seizure of a British ship, *Argonaut*. Its captain and crew imprisoned. Spain, challenged throughout the Americas, was making one last-ditch effort to keep control. Attempting to flex those few muscles it still had.

Sappho and *Elizabeth & Margaret* arrived back in the Port of London in early October 1789. Their complaint reported throughout the nation in the broadsheets on the 15th, putting pressure on Britain's influential Board of Trade to open a court of inquiry. Petitioned, Lord Hawkesbury agreed. On December 4th, 1789, the events at Deseado, and Britain's legal position in the South Atlantic, were considered by the Board. Specifically studied were the Utrecht Treaty of 1713 and the convention of 1771. Hawkesbury concluded that Spain had an arguable case regarding the Patagonian coast but not over the Falklands.

"... it may justly be concluded that the Government of this country has never acknowledged any Right in the Crown of Spain to the Sovereignty of these Islands or relinquished any Claim we may have to them." [88]

Some six weeks later, the rumour of events on the Pacific coast of North America reached London. History repeated itself. 1770 all over again. Spain's Ambassador informed the British Government of the Nootka action in a note of February 11th, 1790. Lord Leed's response, reflecting Weymouth's in 1770, was to demand an equitable and adequate satisfaction. Before any debate on questions of sovereignty. As in 1770, Spain prevaricated

87 *MSS. Arch. Hist. Nacional, Madrid Sec. Estado 4291*
88 *Ibid.* in *TNA BT 5/5* at *424*

while calling upon France for support. Specifically, for military reinforcement should the dispute spiral into war. France was to prove no more reliable an ally in 1790 than it had been 20 years earlier. While Louis XV had suffered internal political problems, they were as nothing compared to those of his successor. Louis XVI's hold on his crown was precarious. So insecure, indeed, that after 1793 Louis would have nothing to place that crown upon. Once again, Spain found itself alone and in need of a face-saving solution. As quickly as could be arranged, *Argonaut*, its captain, and crew were released in the hope that London would be appeased. But at the same time Spain reasserted all its claims to a huge swathe of the Americas.

> *"I have received an order to inform the Ministry of His Britannic Majesty as follows: In spite of the incontestable rights of Spain to exclusive sovereignty, navigation, and commerce, founded on the most solemn treaties, on the discovery of the Indies and the islands and the continent of the South Sea, on ancient laws, and on immemorial possession, which rights this Crown has continually exercised over the territories, coasts, and seas above mentioned, including the right always exercised of capturing transgressors... the Viceroy of Mexico, as appears from the latest information, has already liberated the above-mentioned English vessel and crew. …"* [89]

Britain was not placated and prepared for war. As in 1770, the nub of the dispute came down to the gulf in perception between the two nations. Spain seeing the Americas as its exclusive territory based upon a single discovery in the 15th century. That sighting was the deciding factor for Spain, not occupation. Britain and others, however, considered that unoccupied land, anywhere, would become the legitimate possession of the first nation that occupied it. Claims based on an ancient Papal Bull made no sense to the average Englishman. So Spain's choice was once again, stark. Yield or face war. 1770 had seen negotiations take place in London. In 1790 it would be Madrid. This time France was not involved, which improved communication.

Alleyne Fitzherbert left London on May 9th, 1790, as Ambassador Extraordinary with power to find a peaceful settlement. His instructions were to set aside questions of sovereignty until after an agreement on compensation. Fitzherbert was to make it clear that Britain would not recognise an exclusive right to territory unless founded upon actual and established occupation. Arriving on June 9th, Fitzherbert at first met with evasion. A play for time as no word had arrived from France. On being notified of the problem, the French King had ordered the preparation of fourteen ships of the line in case of need but he was not an absolute ruler. France was administered by committee. With English ire aimed squarely at the Spanish, France's National Assembly was reluctant to get involved. Despite this lack of support, early and discouraging reports from Spain found their way into Britain's broadsheets which were more immediately concerned with the profitable whale industry, than a far distant Sound.

89 *A narrative of the negotiations occasioned by the dispute between England and Spain in the year 1790* J. B. Burges 1791

"... the answer of the Court of Madrid is far from satisfactory. They disclaim any hostile intention towards Great Britain; but at the same time contend for an exclusive right to the Southern Whale Fishery..." [90]

Spain also had a new King, Carlos IV, who had ascended the throne in 1788. Ascended, and then went hunting. Day-to-day business of government left to his wife and a Minister, Jose Monino y Redondo, the Count of Floridablanca. The latter was prepared to accept liability for losses incurred by the owners of the ship seized at Nootka, but did not believe that such generosity should prejudice Spain's sovereignty claims over the Americas. With liability for the injury apparently resolved, Britain suspended its preparations for war. London then turned its attention to the issue of right. That question left unanswered in 1771.

Floridablanca's response, on July 10th, 1790, was to make an offer. If Britain recognised Spanish sovereignty along the western coast of North America from California to Nootka Sound, then; "*... the Subjects of Great Britain shall enjoy the Right of Fishing in the South Sea and Magellanic Region, together with that of Landing, and Erecting Occasional Buildings, in such Unsettled Islands or Parts of the Coast, as should be agreed upon: but that they should not land, or even approach, within a certain Distance of any Spanish Settlement*."

A right to fish, land and erect temporary buildings on unsettled land. Not such a great deal as Britain already considered that it had such a right. Also, the vague reference to 'Magellanic Region' could include Britain's Southern Fishery. It could also cover the Falklands. That was unacceptable to both Fitzherbert in Madrid and to Lord Leeds in London. Leed's response leaked to the journals.

"It is an incontrovertible fact, however, that the Spaniards have not even the pretext of first discovery to the Magellanic regions; and that the only discovery which the Spaniards can claim there is the discovery of the Strait of Magellan; the Portuguese having discovered the East Coast of Patagonia long before Magellan's voyage, and the English having completed the story; consequently, as much exclusive right to that navigation must belong to the English, as the Spaniards can pretend to ... Spanish pretensions on the North are equally groundless; for the first public and authentic description of Nootka, or King George's Sound, … was given to the world in Capt. Cooks last voyage." [91]

Britain's counter-proposal came on August 17th, 1790. Regarding the South Atlantic, it was specific: "*His Britannic Majesty engages, that His Subjects shall not form any Settlements, in any Part of the Western Coast of America, between ------ Degree North Latitude, and ------ Degree South Latitude, or in any Part of the Eastern Coast of South America, North of a Line drawn from ------ to ------ or carry on any Commerce within the said Limits*."

The gaps were negotiable, but there was no mention of any islands. Inshore or offshore.

90 *Kentish Gazette* June 18, 1790 p.4
91 *Leeds Intelligencer* August 24, 1790

Lord Leeds suggested that the southern limit of Spanish territory on the east coast of South America was already known. Set in 1740, with a treaty signed between Buenos Aires and the Patagonian tribes. That had confined Spain's southerly expansion to the Rio Salado (Saladillo); a few leagues to the south of the Rio de la Plata. This, Leeds argued, confirmed that Spain, in 1740, held no pretensions to the territory of South America below that river. Spain, on the other hand, argued that the Treaty of Utrecht gave it all of South America despite that accord only referring to the West Indies and Spanish territory as it had stood before 1700. Twenty-seven years after Utrecht, Spain had set its own southern limit. One that did not include Patagonia. To press the point, Leeds presented a Spanish chart with that border marked on it.[92] Other charts were also made available to Fitzherbert.[93] Patagonia was not Spanish. Britain was looking for Spain to be specific about its claims. To identify exactly where its territory lay. Then to provide evidence of occupation.

Floridablanca received a draft of Leeds's proposal in early September 1790. A week later, he answered that the evidence required to prove occupancy was not available. Gathering it would take time and require extensive consultations with Governors and Viceroys. Demarcation would be time-consuming. Too long-winded for the negotiation at hand. Floridablanca also argued that measures of distance needed re-evaluation. A league was an accepted measurement of about three miles but America was so enormous that a league should, in his opinion, be greater. That argument received short shrift. Fitzherbert did, however, concede that demarcation would be a lengthy process.

Floridablanca emphasised the need for speed by indicating that other Spanish Ministers were erring towards war. Even if unwinnable. Better than another loss of face. So, he suggested a provisional arrangement. Something to keep the peace. At least until boundaries could be defined. Further equivocation was not what London had in mind, so new instructions called on Fitzherbert to present two draft conventions. One demarcating Spanish territory based on the information at hand. The other limiting encroachment only in areas where Spain could prove actual occupation. Floridablanca had ten days to decide which. Seeing Spain's Minister opposed to both drafts, Britain's Ambassador considered he had some room to manoeuvre. A third proposal was produced, combining elements from both of the drafts. A compromise. Carlos received this on October 23rd, 1790. With Floridablanca's recommendation, the King agreed.

Known in Spain as the *Treaty of San Lorenzo del Escorial*, and to Britain as the *Nootka Sound Convention,* the accord was signed on October 28th. As was the practice, the original was in French.

92 https://falklandstimeline.files.wordpress.com/2018/09/plan-of-the-frontier-of-buenos-ayres-that-was-recognized-by-order-of-his-excellency-don-juan-ioseph-de-vertiz-viceroy-and-captain-general-of-these-provinces.jpg

93 For example – *A new & exact map of the coast, countries and islands within ye limits of ye South Sea Company, from ye river Aranoca to Terra del Fuego… by Herman Moll (London) 1711.* See https://falklandstimeline.files.wordpress.com/2018/01/1711-south-sea-company-2.png

A diplomatic fudge written in neither party's natural language. Open then, to questions of interpretation and translation. Articles 1 and 2 dealt with the restitution of property and payment of compensation. Specific to the Nootka Sound incident. Articles 3 and 4 referred only to the Pacific Ocean and South Sea (the name given to the South Pacific by Spanish explorer Vasco Nunez de Balboa in 1513). Restricted then to the seas west of South America. In the original French, *Mers de Sud*, the capital letters indicating a name, not a description. In Spain's less than accurate translation, this became *los mares de sud* (seas of the south).

> *Article 3: … it is agreed that their respective subjects shall not be disturbed or molested either in navigating or carrying on their fisheries in the Pacific Ocean or in the South Seas, or in landing on the coasts of those seas in places not already occupied, for the purpose of carrying on their commerce with the natives of the country or of making establishments there; …*
>
> *Article 4: His Britannic Majesty engages to employ the most effective measures to prevent the navigation and fishery of his subjects in the Pacific Ocean or in the South Seas from being made a pretext for illicit trade with the Spanish settlements; and with this in view it is moreover expressly stipulated that British subjects shall not navigate nor carry on their fishery in the said seas within the distance of 10 maritime leagues from any part of the coast already occupied by Spain.*

Article 3, had it applied, would have protected Britain's whale fishery around unoccupied West Falkland. If the South Sea had been deemed to include the South Atlantic, then article 4 would have kept British ships 30 miles from Puerto Soledad. That port being the sole 'part of the coast' occupied by Spain. Article 5 was specific to the north-west coast of America and so irrelevant for our purposes.

> *Article 6: It is further agreed with respect to the eastern and western coasts of South America and the islands adjacent, that the respective subjects shall not form in the future any establishment on the parts of the coast situated to the south of the parts of the same coast and of the islands adjacent already occupied by Spain; it being understood that the said respective subjects shall retain the liberty of landing on the coasts and islands so situated for objects connected with their fishery and of erecting thereon huts and other temporary structures serving only those objects.*

Undefined terms included 'occupied', 'establishments' and 'adjacent'. Occupation needed to be effective. One man in 1,000 square miles of a wasteland was never likely to qualify. Establishments also required permanent buildings. Temporary constructions associated with seal fishing were not enough. Adjacency, however, had some history. In the 1760s, Spain had argued that islands within 100 leagues (300 miles) qualified as adjacent. A notion rejected at that time by both Britain and France. Modern legal theory limits adjacency to within 100 miles (33 leagues). The Falklands lie some 294 miles from the mouth of Magellan's Strait and 1,000 miles from Buenos Aires.

If article 6 applied to the archipelago, then restrictions would have been placed on both Spain and England (*respective subjects*) regarding the formation of establishments on the island of Soledad. The only island in the archipelago with a Spanish settlement, which lay to the south of Jasons Town. Article 7 dealt with complaints. There was also a written secret article, but that made no reference to 'islands,' adjacent or otherwise.

As to applicability, there seems to be a consensus among historians that the 1790 convention did not extend to the Falkland Islands. [94] They were not in the South Sea (articles 3 & 4), nor 'adjacent' (article 6). Some views do differ, but suggestions that Britain gave up its claims to the archipelago with the 1790 convention are pure fantasy. Following ratification, William Pitt (the Younger) confirmed to Britain's Parliament that nothing had been conceded.[95] Floridablanca, seeking to avoid criticism of the part he played, addressed Spain's Council of Ministers in November, 1790.

> *"... the purpose of the Convention was to avoid a war in the present unhappy circumstances, reserving it for a more favorable time, if it should become necessary. It did not involve an absolute renunciation in case Spain chose not to observe it. It was shown that by a strict interpretation of some of its terms the Convention could be made of little value to England and little loss to Spain. In the stipulations that granted to English subjects privileges of commerce and settlement north or south of places already occupied, attention was called to the expression "already occupied." The word "occupied" did not mean nearly so much as "inhabited" or "peopled" would have meant, and "already" did not mean "actually" or "now." If a place had been once occupied and then abandoned this expression could be made to apply to it. ... it was proposed to observe the Convention only so long as it should be to the advantage of Spain to do so. Whenever she felt strong enough to assert her ancient rights she could still do it."* [96]

Floridablanca was also confident that Spain had ceded nothing. Nothing, at least, that could not be regained. He was wrong. Europe watched and knew that from that time onwards, Spain could only claim occupied territory. Unsurprisingly, Floridablanca's career went downhill and he was gone within 2 years. Huge swathes of the America's were up for grabs. More than that, Spain's 'closed seas' policy was abandoned. That benefited not only Britain but other seafaring nations. France, as an example, grabbed at the opportunity to extend its fishing into the South Atlantic. Spain no longer had friends whom it could rely on. Spain's empire would linger for a while, but its diminished status was clear to all Europe from 1790. The Nootka Sound Convention has been described as Britain's *"greatest victory between the Peace of Paris (1763) and the Treaty of Vienna (1815)."* [97]

94 See *The Falkland Islands in the European Treaty System 1493-1833* J. Fisch 1983

95 *Parliamentary History of England from the earliest period to the year 1803* vol. XXVIII printed by T. C. Hansard 1816

96 *Floridablanca to Iriarte* November 21, 1790 in *The Nootka Sound Controversy* W. R. Manning 1905

97 *The Nootka Sound Controversy in Anglo-French Diplomacy 1790* H. Evans 1974

The terrestrial globe represented in two planes-hemispheres erected on the projection of Mr. de la Hyre of the Royal Academy of Science… 1794 (Paris)(detail) Note – English Isles

1798 Hidrografica de Madrid (Spanish) (detail)

Aware of the scope of Britain's success, Lord Leeds wrote to Fitzherbert, following ratification, to suggest that the question of demarcation not be pursued with any vigour.

> *"Should the case arise (a very probable one) of some British Subject, inadvertently perhaps navigating within the stipulated distance of Spanish Settlement, they of course will complain of such infraction of the Convention; the onus Probandi will lay upon them, and the Discussion will come forward in a regular manner. We may then lament their not having adopted the Plan of Demarcation, in the first instance, which certainly would have prevented any doubt or misinterpretation on the Subject, and the question may then be entered upon with a much better grace as to this Country, than if brought forward at present by us, with an appearance of thinking the present arrangement not completely adequate to its professed purpose. ... I fancy there can be little occasion for mentioning Falklands Island at all, ..."* [98]

Restricted to paper protests by article 7, Spanish attempts to enforce the convention were, at best, half-hearted. Found at Puerto Deseado in January 1791, four British whalers/sealers received a warning from two Spanish frigates. The warnings were ignored. Twelve months later, the same happened again. On both occasions, having protested, Spain's captains withdrew. Leaving the sealers to their bloody employment. Neither event was the subject of any complaint to London although, in May 1791, Fitzherbert did report that Floridablanca was unhappy. Specifically about Britain not appearing to be taking measures to stop its ships touching at Spanish ports. All reports of encounters with British ships at the Falklands ceased after 1790, despite instances of sealers hunting in Berkeley Sound. In sight of the Spanish garrison. There was a Spanish reconnaissance in 1793 which saw a dozen American sealers warned to leave. Another by Alejandro Malaspina in January 1794 when he anchored in Port Egmont. On that occasion, three American sealers were told to go. Not that Washington was a signatory to the *Nootka Convention*. Spain's last known reconnaissance of Egmont was January 26th, 1796. Then, Rear-Admiral Ignacio Maria de Álava y Sáenz de Navarrete stopped off to take on water en-route to Cape Horn. He found the harbour empty of other ships, but then it was the austral summer. With sealing grounds around the archipelago depleted, ships had gone hunting further south. They only returned to the Falklands to overwinter. A time when Spain's garrison, more often than not without a ship, huddled by their fires.

Amiens

With Spain's defeat, France saw an opportunity to expand its fishing fleets into regions previously forbidden. Expansion into all areas in fact. France declared itself a Republic on September 22nd, 1792 and was at war with Britain within six months. Blind to the irony, Paris called upon its neighbour for military support. Even a little surprised when Spain declared war on France. Though the War of the Pyrenees was to prove a short-lived affair. More incredible was that Britain and Spain found themselves on the same side for a change.

98 *Leeds to Pitt* November 21, 1790 in *Add. MSS.28066, fo.348*

Allied by a treaty and welcomed in each other ports. An uncomfortable arrangement for old enemies. It would not last. Madrid and Paris settled their differences and, in October 1796, allied against Britain. That Anglo-Spanish conflict, part of the French revolutionary wars, lasted from 1796 – 1802 and again 1804 – 1808. In the gap lies a small footnote in the history of the Falklands archipelago. By 1801, France had been at war for nine years, pitted against much of Europe. Despite successes, it needed a break. Indeed, all the combatants were fatigued and so, when France opened tentative peace talks in early 1801, Britain welcomed them. It was around that time, conscious that Spain no longer ruled the southern oceans, that an old Frenchman wrote his last memorial. Louis Bougainville, adventurer and circumnavigator, had survived the terrors of the French Revolution. Still honoured, in March 1801, he wrote to the Republic's government to urge a reassertion of France's right of first occupant to the Malouines.

> *"30,000 Frenchmen, established on these islands would ensure to the Metropole (Paris) a vast trade in the two oceans, and this settlement would also serve to form the training school indispensable for sailors of a navy such as the French Navy should be. No time is more suitable than now for Spain to renounce in our favour her imaginary right to these islands and for England to consent to this concession."* [99]

With British consent? Intriguing, but unexplained. Bougainville was not ignored. In London, on September 7th, 1801, during talks about talks, France's envoy, Citizen Otto, proposed a preliminary agreement. Article 13 of this identified, for the French, a cession of an establishment "*for the fishery in the Malouine Isles.*"[100] Agreement was reached between Lord Hawkesbury and Otto for Preliminary Articles on October 1st, 1801. In that there was no mention of the French demand for a base. Rejected during the negotiation it seems. Substantive talks commenced at Amiens on December 1st. Lord Cornwallis was Britain's envoy. French proposals for a base on the Falklands were then resubmitted to Cornwallis on December 26th, 1801. Once again rejected by Lord Hawkesbury. His explanation was that the demand for an establishment had been rejected before the preliminary articles were signed. That demand could not, then, form part of any definitive treaty. Cornwallis delivered this rebuff to French negotiators on January 19th, 1802, who, without argument, withdrew their demand and the Peace of Amiens was signed on March 27th. It is difficult to know quite what to make of this strange affair. France would seem to have recognised British sovereignty over at least part of the Falklands. Perhaps as a result of the 1771 accord? Or the 1790 convention? Too little of the early negotiation is known.

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99 Quoted in *La Primera Unión del Sur, Orígenes de la Frontera Austral Argentino-Chilena Patagonia, Islas Malvinas y Antártida, Buenos Aires* Diego Luis Molinari 1961 p.67

100 *Pieces Officielles relatives Aux Preliminaires de Londres et Au Traite D'Amiens – A Paris, de L'Imprimerie de la Republique An XI* translated as the *Official Papers Relative to the Preliminaries of London and the Treaty of Amiens published at Paris by Authority of the French Government* 1803. Translation printed for J. Debrett May 30, 1803

What part, if any, Spain played in this is not clear. Despite being France's ally, they were not mentioned in the documentation. If Madrid was unaware of the French demand in 1801, then they could not but help to have read about it in 1802. When Paris published all their documents for public consumption. There is no record of any Spanish protest either to Paris or London. Spain's attitude at that time went unrecorded but the lack of any protest suggests that Spain recognised that it still shared the archipelago with Britain.

Amiens allowed Europe to draw breath, but that was all. France and Britain returned to war on May 17th, 1804, with an unwilling Spain joining in that December. Reluctant with good reason. All that Madrid could see were future losses. Trafalgar on October 24th, 1805, confirmed Spain's pessimism. Reducing its ability to contact its American colonies, providing *de facto* independence and food for thought.

Following Spain's re-alliance with France in 1796, there had been vague plans for a British attack on its tender underbelly; South America. Using Port Egmont as a jump-off point had been considered but dismissed due to the distances involved. Then an opportunistic raid on Buenos Aires by British forces from the Cape in 1806 brought about another small footnote. Clayton's lead plate, left nailed to the door of Fort George in 1774, and stolen by Callejas in 1776, turned up in a warehouse. Sent back to London and placed in the Great Storeroom at the Tower of London, it would spend more than three decades forgotten. Destroyed in a fire in October 1841. Occasionally the question arises as to why Britain, on finding the plate, did not complain about its theft thirty years before. Two reasons stand out. First, there is no advantage in complaining about an old act of petty damage when at war with the offending nation. Second, any acts before the Nootka Convention had become rather irrelevant.

Britain's 1806 raid did not go well, nor the 1807 attempt to rescue the situation. A disaster for the Soledad garrison, which was not resupplied necessitating rationing. Forty years after its arrival on East Falkland, the Spanish garrison could still not feed itself. The Acadians who could, were long gone.

Another minor event occurred in 1806. On December 13th, that year, Madrid transferred financial responsibility for the Soledad garrison from Buenos Aires to the Royal Spanish Navy. From that date, Soledad was to be considered, for accounting purposes, as a "*ship sailing*." The garrison, its crew. This despite the fact that they rarely saw anything that could float. A shore establishment, administered from the nearest naval base. Montevideo. Fifteen months later and with naval officers in short supply due to the war, a *primer piloto particular* of the Spanish merchant fleet, Gerado Bordas, took command of the Soledad garrison as *comandante-gobernador*. Bordas's wages, then ran up against this minor accounting change as he was not a commissioned officer. Still unpaid in March 1810, Admiral Salazar attempted to pass the bill on to Buenos Aires. In the early stages of a revolt, beleaguered Viceroy Cisneros sent the request back. Attached to it was a copy of the 1806 Treasury order that gave responsibility to the navy. Salazar tried again two months later. Bad timing. Viceroy

Cisneros found himself ousted by a Buenos Airean *junta* two days after the request was sent. Cornelio Judas Tadeo de Saavedra, the *junta*'s leader, responded to Salazar in exactly the same way Cisneros had. The request was returned attached to a copy of the treasury order. Salazar seems to have finally resolved the problem by giving Bordas a back-dated commission. These small events are now claimed to prove that the archipelago was administered by Buenos Aires from the earliest days of its independence. Not that Buenos Aires declared independence in 1810. Not that Buenos Aires ever paid the outstanding debt. The Soledad garrison was being administered by Montevideo.

The Buenos Aires' insurrection had its origins in the events of 1808. Napoleon Bonaparte had turned on his ally and occupied Spain; imprisoning both King Carlos and his son Ferdinand. Resistance came in the form of *juntas* forming in Murcia, Valencia, and Seville. They came together to form a *Supreme Central Junta* which signed a treaty of alliance with Britain on January 14th, 1809. But Spain's colonies in South America divided over what action to take. Republicanism and independence, after all, held attractions. Chile declared its independence from Spain in September 1810. Venezuela followed in July 1811. Paraguay, a province of the Viceroyalty of the Rio de la Plata, also announced its independence in 1811. Buenos Aires dithered, adopting a contradictory position in May 1810. In that, it rejected the authority of the *Central Junta,* whilst declaring loyalty to the monarchy. To confuse the situation further, Buenos Aires then ejected the disliked King's Viceroy. At most, a declaration of independence from French-occupied Spain. Not independence from monarchy. Or Spain.

> *"... we established our own Junta of Government, on the model of those of Spain. Its institution was purely provisional, and in the name of the captive King, Ferdinand..."* [101]

Montevideo took a different position, declaring loyalty to Spain's Crown and its *juntas*. Argentina, before it even was Argentina, set a long precedent and went to war with itself. Soledad, administered by the Spanish Navy remained loyal to the Viceroyalty. In particular, to its new Viceroy, Francisco Javier de Elio, Governor of Montevideo. Wars, civil or otherwise, needed fighting men. So, at the meeting of Montevideo's military council on January 8th, 1811, a decision was taken to recall the troops from Soledad. A ship left four days later, and the garrison evacuated on February 13th.

Before withdrawing, *comandante-gobernador* Don Pablo Guillén Martinez, saw to the important tasks. The marks and signs of sovereignty. Spain's flags left flying and a notice nailed to the door of the chapel bell tower.

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101 *Manifesto directed to all nations of the Earth, by the General Constituent Congress of the United Provinces of South America, respecting the treatment and cruelties they have experienced from the Spaniards, and which have given rise to the Declaration of their Independence,* Buenos Ayres, October 25, 1816

This island with its ports, buildings, units and contents belongs to the sovereignty of Sr. D. Fernando VII King of Spain and the Indies, Soledad of Maluinas 7 February 1811 Governor Paul Guillén. [102]

Island, singular. Quite a few documents about the garrison's withdrawal and the orders to Guillén have survived. All consistent with a Spanish claim to the island of Soledad only. Montevideo, the seat of the Viceroyalty of the Rio de la Plata after 1810, fought on against the forces of Buenos Aires. Declared a 'rogue city' by the legitimate government of Spain. It was against this background, in January 1813, that a Buenos Airean ship owner applied for a licence to hunt seals. A Buenos Airean licence for the Falklands and coasts of Patagonia. Enrique Jones had been born Henry Libanus Jones in Wales before emigrating to Buenos Aires in 1810. He spent the rest of his life there. Whether a licence was issued is not known. There is no evidence for it. Claims that his application amounted to a recognition of Buenos Airean rights, by Britain, are risible.

Seeing British forces engaged in Europe, the United States declared war in 1812. Not very relevant, but the clash did throw up another Falklands footnote. Two actually. News that London and Washington were at war was slow to spread. So when a British ship from distant New South Wales foundered off Eagle Island, its passengers and crew were unaware. On February 8th, 1813, *Isabella*'s hands got the passengers to shore. There they erected temporary shelters before a boat's crew departed to seek help. Among those remaining on Eagle Island was Capt. Robert Durie and his wife Joanna Anne. She gave birth that same day to a daughter, Elizabeth Providence Durie. The first recorded British birth in the islands. As noted previously, giving birth on a remote island is no guarantee of ownership. *Isabella*'s boat crew reached the garrison site at Puerto Soledad on March 6th. Finding it deserted, they pointed their little boat towards Montevideo, where they arrived on March 30th. During those years, Britain maintained a small naval force in the Rio de la Plata. Its commander detached HMS *Nancy* (Capt. D'Aranda) to affect a rescue. However, before D'Aranda could reach Eagle Island a cutter from an American sealing ship found the castaways. Anchored at New Island, *Nanina*'s captain was Charles Barnard. A party of survivors were taken to see Barnard, to negotiate passage to Montevideo. Unfortunately, whilst there, someone mentioned the war. *Isabella* had been carrying officers from Britain's 7th Regiment who, unexpectedly, faced an enemy. Better armed than Barnard, they seized control of *Nanina* from their would-be rescuers. Barnard and four of his crew helplessly watched their ship sail away on June 11th, 1813.

Meanwhile, HMS *Nancy* had arrived at Eagle Island. When *Nanina* anchored there, D'Aranda took her as a prize of war. Both ships sailed on July 27th, removing eleven

102 "*Esta isla con sus Puertos, Edificios, Dependencias y quanto contiene pertenece a la Soberanía del Sr. D. Fernando VII Rey de España y sus Indias, Soledad de Malvinas 7 de febrero de 1811 siendo gobernador Pablo Guillén"*

American sealers as prisoners-of-war. Abandoning those still on New Island. Not as bad as it sounds as New Island was the regular resort of American ships and, in particular, sealers. There were some happy endings. HMS *Nancy* returned Isabella's crew and passengers to civilisation at Montevideo. *Nanina*, under a prize crew, got to Rio de Janeiro, where the prisoners were released. Admiral Dixon was an honourable man. Charles Barnard and his men got off the archipelago in November 1814; in good health. Rather healthier than the title of Barnard's subsequent wrote suggested. [103]

One obscure Argentine text[104] suggests that D'Aranda missed an opportunity to reassert British sovereignty, but why would he? It was not in doubt as far as any English captain was concerned.

Britain's inconclusive war with the USA petered out in late 1814. Peace declared in February 1815. Before that, in the Autumn of 1814, a British ship visited Puerto Soledad.

> *"... this place appears to have been settled by the Spaniards. By a paper I found in the Governor's house it appears they left it in April 1811. The houses were in good condition, and consisted of about twenty built of wood, and a small Church. In the vicinity of the harbour, on the first day of our arrival, I saw about fifty head of fine Oxen, and as many horses, likewise as many Pigs,.."* [105]

103 *A Narrative of the Suffering and Adventures of Capt. Charles H. Barnard in a voyage around the world.* C. H. Barnard 1829

104 *Las Malvinas Entre el Derecho y la Historia* M. G. Kohen & F. D. Rodriguez 2016

105 *Remark Book, HMS Rinaldo 1st July to 30th November 1824 Misc. Papers vol.50 (AD.2).* Written by Lieut. John Arthur Moore commanding *Rinaldo* a decade after his first visit to Puerto Soledad; Moore is known to have served as Masters-Mate on HMS *Orontes* at the West Indies in the second half of 1814.

6

Dis-United Provinces

"The history of the Government of Buenos Aires between the years 1810 and 1833 is a confused one. The revolution against the mother-country, Spain, broke out in the Viceroyalty of La Plata in 1810; it was completed in 1816, but not until 1853 did the Argentine nation begin to inaugurate constitutional Presidents...." [106]

In March 1814, Buenos Airean assertions that it ruled in the Spanish King's name, ran up against the unexpected when he re-entered Spain. Taking up the throne, Ferdinand VII demanded a return to absolute monarchy. Throughout his territories. Not a liberal leaning monarch in any sense. Indeed, Napoleon's retreat before Wellington caused no little consternation throughout South America. Republicanism was set back in Europe, but Spain's colonies were just getting to grips with the notion of self-rule. Divine power of kings; abrogation of the liberal 1812 Constitution and Ferdinand ordering an attack on Buenos Aires led, irrevocably, to rebellion. July 9th, 1816, saw a declaration from a Congress in Tucumán.

> *"We, the Representatives of the United Provinces of South America in General Congress assembled, invoking that Supreme Being, who presides over the universe, and in the name of and by the authority of the people we represent, asserting before heaven and all the nations of the earth the justice of our resolution, do hereby solemnly declare it to be the unanimous and indisputable determination of the people of these Provinces to break the bonds which have hitherto bound them to the Kings of Spain – to recover those natural rights of which they have been deprived, and to take upon themselves the character of Free Nation, independent of King Ferdinand the Seventh, of his successors, and of Spain,.."* [107]

The United Provinces of South America. A misnomer. A fantasy. It was not South America, despite the dreamers. Nor was it united. It consisted of some of the territories of the Spanish Viceroyalty of the Rio de la Plata. By no means all of them. Paraguay was gone. The Banda Oriental and Montevideo, retaken from Monarchist forces in 1814 by General Artigas, was defiant. Resisting the authority of Buenos Aires. Bolivia also stood apart. Other *intendencies* and *gobernaciones* of the old Viceroyalty also declined to sign up. These included Santa Fe, Entre Rios, Corrientes and Misiones. A nation founded in dissent. The name 'Argentina' predated the Viceroyalty. An Italian word, associated with silver. And, of course, the river that transported the ore from the mines. The Rio de la Plata was the Silver River. The name Argentina was still in use in the early 19th century but would not be

106 *Memorandum on the Falkland Islands* 1947 (Foreign Office Internal) in *LCO 2/490*

107 *Declaration of the Independence of the United Provinces of South America* quoted in *Constitution of the United Provinces of South America, Framed, Sanctioned, and Ordered to be Published by the Sovereign and Constituent Congress on the 22 April 1819...* 1819

formally adopted by the fledgling nation before 1826, in an ill-fated Constitution.

Then, a second time, adopted with the redesignation of the country as the Argentine Confederation in 1829. Declaring independence and attaining it are two very different things, however. Attaining Statehood harder still. Sovereignty required effective occupation. To be effective there had to be control. In 1816, the Supreme Director had little authority outside the Province of Buenos Aires. Also, theoretical notions of the rights of successor States were in their infancy in the early 19th century. No established nation accepted that revolutionaries inherited from their mother countries. All revolutionaries could claim was that territory which they could hold by the strength of their arms. South America's UP, reduced expeditiously to the United Provinces of the Rio de la Plata, did not inherit any territory from Spain. Certainly not Paraguay. Not the Banda Oriental. Nor Patagonia, which Spain had never controlled. Not Soledad Island which had been dependent upon Montevideo and Spain. Not that Artigas could claim the island either, as he had no effective control over it. Viceroy Elio's 1811 withdrawal of the garrison did not change its legal status. Spain's claim to the eastern island of the Falklands archipelago remained. Better than all others. The awkward compromise of 1771 remained the status quo. Britain in the west, Spain in the east. The Falklands remained an unresolved question between Spain and England. Neither Buenos Aires or Montevideo was in the game.

In 1816, General José de San Martín was mustering an army in Cuyo Province in central South America. His purpose to eject all Spaniards and loyalists. In need of troops, a letter was circulated on August 14th, 1816, in his name. It called for recruits from the "*jails of Patagones, Malvinas or other places.*" Cuyo is a long way from the sea, but while Patagones had a prison, there had never been one at Soledad; deserted for five years. This circular is another of those odd items that get paraded from time to time as 'evidence' of early administration by Buenos Aires. Absurd. Military prisoners had supplied manual labour at Spain's Soledad garrison after 1769, but it had never been a gaol. San Martin's information was inaccurate and out of date. Nothing more. Puerto Soledad's dilapidated state was witnessed in November 1816. Gabriel Francisco de la Quintana of the Royal Spanish Navy arrived there aboard a merchant ship, *Carmelo.*

> *"Church. Burnt ceilings and altar, and cast down a front of its walls. House of the Commander. Burned and cast down its walls and doors. House of the second Commander. Burned its roof, doors and windows with only the walls. Hospital. Burned its roof. All its beams, doors and windows, and demolished a front of the main room. Presidio house. Burned on one side with doors and windows. Barracks of the troop. Idem, burned and cast down their walls. Navy Barracks. Idem, in everything like the previous one. Warehouse and supply room. Everything burned with only the walls. Powder store. Idem. Idem. Smithy. Demolished the room of the forge. Bakery. Only structure that was good in everything, both its furnaces and its walls and divisions. Batteries. Cast down their walls and embrasures. ... only four leagues away we*

have seen more than a thousand horses and more than six hundred cattle." [108]

Someone, between Lieut. John Moore's visit in 1814 and that of Quintana in 1816 had gone to some trouble to destroy the site, but who is not known. Vengeful whalers perhaps? Not that there were many whalers or sealers around the archipelago in that period. Stocks had become severely depleted. *Pickering* (Samuel B. Edes), out of Boston, found too few seals to make a hunt worthwhile in January 1817 although Port Egmont was still the place to overwinter.

"The English again formed a small settlement in Port Egmont in 1817, principally as a place of refreshment for the Whalers." [109]

The end of the 1812 war saw the release of thousands of experienced fighting men in need of work. America's revolutions were employing. Wanted, in particular, were trained seamen. Some estimates suggest that as many as 20,000 moved to South America after 1815. [110] Pirates were criminals. Often executed without trial. Privateers carried licences issued by governments. Licensed to kill. Both Buenos Aires and Montevideo were notable users of privateers in that period. One such American mercenary was David Jewett (Jewitt), who worked for Buenos Aires as a privateer from June 1815.

Despite concerns that so many of its citizens had taken up privateering, in September 1815, the USA declared itself neutral in Spain's colonial disputes. Neutral but not indifferent. As a revolted colony itself, the US had empathy for other revolutions. Any uncertainty lay with deciding which should be supported. So, Washington sent out Commissioners to make assessments. Three sailed for the UP on December 4th, 1817, in USS *Congress*. They were to answer a simple question. Should the USA recognise the United Provinces as a new nation State? Early reports were not complimentary, arguing that President Monroe should delay recognising the UP. Supreme Director Juan Martín de Pueyrredón had not impressed the Commissioners. That was followed by a Commissioner's report in November 1818, which considered the geographic area claimed by the UP.

"To the South of latitude thirty-eight degrees and a half, and between the Andes and the Atlantic, as far as the straits of Magellan, is, at present, entirely in possession of the various tribes of Patagonian savages, over whom the colonial Government exercised no authority, nor asserted any claim, other than a right of pre-emption and of settlement in their territory against all foreign nations; to which rights and benefits the independent Government claims to have succeeded." [111]

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108 *Andres Villalba to Jose Garcia de Leon y Pizaro No.413* in *Esatado del puerto de la Soledad en las Islas Malvinas Estado, 99, N.14.* A *minute* of April 13, 1817 notes the report's arrival at the Ministry of War in Madrid.

109 *Army and Navy Chronicle (New Issue)* vol.6 January 1 to June 30 1838 p.165-166

110 *Niles' Weekly Register* January 8, 1820

111 *Report of Theodorick Bland, Special Commissioner of the United States to South America, to John Quincy Adams on the condition of South America November 2nd 1818* in *Diplomatic Correspondence of the United*

No mention of offshore islands at latitude 52° S. That November, President Monroe addressed his nation. Observing that there was little prospect of a speedy resolution of South America's wars with Spain; Monroe noted that the UP remained divided. Entre Rios, Santa Fe, and Paraguay effectively independent. Monroe, while sympathetic, was not going to recognise the United Provinces of the Rio de la Plata in 1818. The situation was worse than he knew. Pueyrredón attempted further unification in May 1819 with the proposal of a formal Constitution. Unsupported, it fell, together with any semblance of political order. When the UP's Congress dissolved on February 16th, 1820, the nation shattered into a loose association of autonomous territories. No central government. Indeed, no country at all. In Buenos Aires during 1820, the average term of provincial Governor was three weeks.

> *"... in the year 1820, hope was entirely extinguished. Very early in that year a revolutionary movement took place against the supreme authority of the country, ... This produced a general dislocation; and the nation subdivided itself into as many states as there are provinces, each assuming the form of a sovereign independent body..."* [112]

Jewett

Buenos Aires still functioned. Commerce was still conducted in its markets and ports. There was still money to be made. Conflict could be profitable. So, many merchants, resident and foreign, invested in the privateering business. Some, in 1819, bankrolled a venture by one Patricio Lynch, who acquired a French frigate, *Braque*. He refitted the vessel to take 30 guns; renaming her *Heroina*. Command, with the rank of Colonel in the National Marine Service, went to David Jewett. As did the all-important corsair licence, issued by the Ministry of War and Marine.

This document survives. Some wording is faint, but it seems clear that the signature of the Supreme Director, Jose Rondeau, was appended separately. Probably before completion of the rest of the document. Presented as a signed blank and completed by the *armadore*. Buenos Airean licences permitted the pursuit and capture of Spanish ships only, while those issued in the Banda Oriental allowed pursuit of Portuguese ships. Regulations in Buenos Aires did not permit the possession of more than one licence, although this was often ignored. Before *Heroina* sailed, Lynch requested any specific orders that the government may have had. There is no evidence that there were any. So, on sailing from the Rio de la Plata on March 21st, 1820, Jewett headed north-east towards Spain.

Meanwhile, in the archipelago, ships still stopped for rest and repair. Ever the haunt of whalers and sealers. But merchant and passenger vessels taking the eastern route from Australia and New Zealand also began seeking shelter there.

States Concerning the Independence of the Latin-American Nations William R. Manning 1925 vol.1 pp.382 & 389.

112 *Nuñez to Parish June 15, 1824*

SELLO PRIMERO.

MINISTERIO DE GUERRA Y MARINA.

EL DIRECTOR SUPREMO DE LAS
Provincias Unidas en Sud América.

Atendiendo á los méritos y servicios de
D. Davis Jewett Comandante de la Bizarra
de guerra del Estado la Heroina
ha venido en conferirle el Grado de Teniente de Exercito al Servicio
de la Marina Nacional
concediendole las gracias, exenciones y prerogativas que por este Titulo le corresponden.
Por tanto mando y ordeno se le haya, tenga y reconozca por tal Con Graduacion
para lo que se hace expedir el presente Despacho, firmado de mi mano, sellado
con el sello de las Armas del Estado, y refrendado por mi Secretario de la Guerra,
del cual se tomará razon en el Tribunal de Cuentas, y Tesoreria General.
Dado en el Palacio Directorial de Buenos Aires á Quince de Diciembre
de Mil ochocientos veinte

V. E. confiere el Grado de Tnte al Secr. de la
marina a D. David Jewett Comte de
Bizarra de guerra del Est. la Heroina

Jewett's Commission

Cape Horn remained a challenging route and few ships rounded it without damage. *Uranie*, a French ship, entered Berkeley Sound on February 14th, 1820. She was leaking. Badly.

> *"At 11pm, .., we were overtaken by calm [and decided] to anchor,... Despite the efforts of the crew and the working of all our pumps, the water had already reached the height of the orlop deck... fear of seeing the corvette sink persuaded me to slip the cable... to stand in for the sandy cove... therefore at 3am the Uranie reached the inevitable termination of her voyage, ..."* [113]

Run aground, its passengers and crew abandoned the ship. Louis-Claude de Freycinet, commanding, evaluated the damage. Deemed too extensive for repair in the Islands, he negotiated passage for his passengers and crew with a sealer, *Mercury*. His ship was not without value, however. More than one captain expressed an interest in the salvage. Something the Frenchman declined to discuss. Hopeful that she could be recovered. A little naive. Scavenging was often the only way of repairing a ship far from home. *Uranie* was unlikely to remain in one piece for long.

Out in the Atlantic, was the Buenos Airean corsair *Heroina* which, on July 27th, 1820, chased down a Portuguese merchantman, *Carlota*. An act of piracy outside the scope of the licence Jewett carried. With a prize crew on board Carlota, both ships turned for the Cape Verde islands. From there towards Brazil, off whose coast Jewett discovered a conspiracy to mutiny. The grievances are not known, but the Colonel was vicious in putting the insurrection down. Four or six men shot. Accounts vary, but in doing so he created genuine grievances. Particularly among the officers. Seven months and one prize was not a great return. So, Jewett headed both ships towards the Falklands. Off the archipelago, on October 23rd, 1820, they ran into a storm. Only *Heroina* emerged; sailing into Berkeley Sound on the 27th. [114] Part of the crew had gone wherever *Carlotta* had, down or elsewhere is a matter of speculation. Of the remaining crew, many were suffering from scurvy so when Jewett anchored he got as many onshore as were not needed to maintain *Heroina*. Taking stock of his location, the Colonel saw a thriving industry. Whalers and sealers transshipping oil and furs in the calm waters of the archipelago. He also saw *Uranie*. With little to show for his voyage, Jewett was not slow to recognise an opportunity for profit. Nearby in Port St. Salvador was *Jane*, an English whaler commanded by James Weddell. On November 2nd, 1820, Weddell received a letter.

> *"National Frigate Heroina at Port Soledad:*
>
> *Sir, I have the honour to inform you of the circumstance of my arrival at this port, commissioned by the supreme government of the United Provinces of South America to take possession of these islands in the name of the country to which they naturally appertain. In the*

113 Account of Louis de Freycinet quoted in *The Uranie site(s): Report of an inspection and the context of the survivor's camp, wreck and wreckage emanating from the loss of La Corvette du Roi L'Uranie at the Falkland Islands in 1820* Dr. M. McCarthy 2002

114 *Jewett to Supreme Director of the United Provinces of South America February 1st, 1821 AGN Sala X5 1-2*

performance of this duty it is my desire to act towards all friendly flags with the most distinguished justice and politeness. A principal object is to prevent the wanton destruction of the sources of supply to those whose necessities compel or invite them to visit the islands, and to aid and assist such as require it to obtain a supply with the least trouble and expense. As your views do not enter into contravention or competition with these orders, and as I think mutual advantage may result from a personal interview, I invite you to pay me a visit on board my ship, where I shall be happy to accommodate you during your pleasure. I would beg you, so far as comes within your sphere, to communicate this information to other British subjects in this vicinity. ..."[115]

A couple of points stand out. First, that Jewett had sailed a month after the UP's Congress broke down. So he must have known that there was no central government; indeed, no country at all. Second, his 'commission' was only as a Colonel in the 'National Marine Service'. A body consisting almost entirely of privateers. Weddell, intrigued, walked from his anchorage to Berkeley Sound.

"Captain Jewitt received me with great politeness, and not withstanding the mutilated and worn out state of his crew, he assumed an air of power and authority beyond my expectation. He told me his business was to take possession of the Falkland Islands for his government, and that everything necessary for an establishment would be procured from Buenos Ayres so soon as he could purchase a cutter, of which there were several among the islands." [116]

Weddell found Jewett impressive, but not, it seems, believable. The English sealer did not accept that Jewett's reason for being there was about any claim. Weddell wrote that Jewett's prime concern seemed to be salvage rights to the wreck of *Uranie*. [117] Most telling was the privateer Colonel's failure to produce any document evidencing a mandate. He carried no instruction. No authority. Weddell then watched as Jewett's subterfuge progressed with a ceremony. On November 6th, 1820, the Colonel raised the colours of Buenos Aires, read a declaration and fired 21 guns in salute. Immediately followed by the Colonel laying an 'official' claim to the French wreck. After seven months lying on a beach unattended, it is surprising that there was anything left worth salvaging. As for the territorial claim, it is often asked why Weddell did not protest? Simple. In his own words, he saw Jewett as a threat to his ship and crew. He therefore adopted a policy of strict neutrality. Nothing to antagonise a very dangerous man. The only other known letter sent to a ship was that to Capt. Orne of *General Knox*, out of Salem. He received his note on November 9th.

"Sir, I have the honour to inform you of my arrival at this port, to take possession of these Islands, in the name of the Supreme Government of the United Provinces of South America. The ceremony was publicly performed on the sixth day of the present November, and the National Standard hoisted at the fort under a salute from this frigate, in the presence of several citizens of the United States, and subjects of Great Britain.

115 *A voyage towards the south pole, performed in the years 1822-24* J. A. Weddell 1825
116 *Ibid.*
117 *The Falkland Islands, a Memoir, descriptive, historical, and political* R. Greenhow 1842

It is my desire to act towards all friendly flags with the most distinguished justice and hospitality; and it will give me great pleasure to aid and assist such as may require them, to obtain refreshments, with as little trouble and expense as possible. I have to beg of you to communicate this intelligence to any other vessels of your nation, whom it may concern.

I am, Sir, your most humble servant, D. Jewett."

This was very nearly a step too far. Weddell found himself warning the Colonel that there was talk of the whalers taking up arms against *Heroina,* although in the end, it all amounted to nothing. Jewett's depleted and sick crew were in no condition to enforce any rules. So, Orne ignored the letter; resupplied his ship with beef from cattle killed by his crew and then left. With Orne went 5000 seal skins, 600 barrels of whale oil and his copy of Jewett's letter.

Another act of piracy took place in December 1820, when Jewett seized a US ship, *Rampart*. Bound for Europe with a Spanish cargo. Quite sufficient, in the Colonel's view, to qualify the vessel for confiscation. Jewett's first act of piracy had been followed by a conspiracy to mutiny. This second ignited a major fallout with *Heroina*'s Captain of the Troops, Capitán Laureano Anzoátegui. A Buenos Airean from a notable family. Relieved of his post, Anzoátegui was shipped back to Buenos Aires at the first opportunity.

Finally, with something to show, Jewett sat down and wrote a thirteen-page report of the voyage. He concluded with a request for relief. Within this report, Jewett included all the events of the voyage. A full account of the seizure of *Carlota* and the conspiracy to mutiny. The loss of *Carlota* and the condition of his crew on their arrival at Berkeley Sound. But one major detail was missing. His very public claim on behalf of the United Provinces of South America. Curious. So why? It is suggested that Jewett could not mention this event because he carried no authority to stake such a claim. But that is illogical. There were witnesses. In particular his officers, each of whom was likely to make their own reports on returning to Buenos Aires. One disgruntled, but well-connected, Captain of the Troops was already on his way back. It was unlikely that he would remain silent.

Failure to include the information in one report has little real meaning. There may have been others missives or some reports could await his return. Delivery in person. Better left off the official paperwork. Privateers, even Colonels in the National Maritime Service, did not, as a matter of course, carry authority to make territorial claims on behalf of any nation. To make a territorial claim, Jewett needed one of two things. Either specific authority in the form of a document, or adoption of his action after the event. There is no evidence that the Colonel had received prior authority; either before leaving the Rio de la Plata, or at any later rendezvous. He certainly did not produce one. Adoption was also an important requirement. Back in 1594, Hawkins had seen an island that he claimed for England. He was also without any specific order to make claims, but the evidence suggests

that at some point after 1594 and before 1740, his claim to Hawkins' Maidenland was adopted by the English Crown. Formalised. Given legitimacy. Bougainville had recognised the importance of adoption too. He had sailed with a project to take possession of an unoccupied territory. Knowing full well that it had another claimant. A claim based only on discovery but while effective occupation could over-rule that other claim, adoption was necessary to confirm it. That is why, on his return, he invited Louis XV to take the territory as a possession. With Hawkins's claim accepted by the Crown, Byron did not need his re-claim to be adopted. But it was. Evidenced by the sending of McBride. Britain has always felt on firmer ground in dating its claim from 1765. Jewett's act, therefore, was also in need of formal ratification. Better then, that the details remain confidential until Buenos Aires could consider a formal act of adoption. Jewett's exact reasoning is not known. What is known, is that Buenos Aires did not mention anything before 1832. Three years after Britain's first protest. If Jewett did have an order in 1820 to go to the site of the old Spanish *presidio* and state a claim, the failure of Buenos Aires to recognise it is perplexing. Unless the 1820 collapse of central government was seen as fatal to any claim. Or unless whoever gave such an order had gone; replaced. In those times, Buenos Aires offered tenuous employment to Ministers. All that can be said with certainty, is that Jewett did what he did; did not produce any written authority and then failed to mention anything in his only known official report.

Jewett's relief appeared in April 1821. Capt. William Mason, who arrived on a Dutch ship. Mason's orders were to resupply *Heroina* and sail again. He wasted no time; departing three weeks later. Jewett had already gone. Bound for Buenos Aires. Mid-winter 1821, found the archipelago returned to its earlier state. Neither Jewett or Mason had left anything behind on East Falkland. No marks or signs. No flags. No notices. Nothing. It is strange then that Jewett and Mason are regularly listed by modern Argentines as 'governors' of the archipelago. No such title was ever conferred on either. It is doubtful that Mason was even aware of a sovereignty claim. He went on to commit further acts of piracy in *Heroina*; was captured, tried and jailed. Within a few months, Jewett fell out with his Argentine employers and moved to Rio de Janeiro where he took up arms against them on Brazil's account. Weddell did not publish until 1825, but news of Jewett did appear before that.

In June 1821, Capt. Orne arrived back in Salem. There he handed Jewett's letter over to the local newspaper which published it. That report then travelled, via other broadsheets, through London, Gibraltar, Madrid and back to Buenos Aires. There was no reaction in any of those places. Not even the last. Without official adoption, Jewett's acts were of no consequence. And besides, none of those other nations yet recognised the United provinces as a country. What Buenos Aires did do, in 1821, was announce a *decree* regulating fishing on the coasts of Patagonia. An area well outside the territorial limits of the province. With no national government, the *decree* was, at best, presumptuous. An *ultra vires* act with consequences. It would become an issue for the Argentine Senate in 1882, which

found that the Buenos Airean government had legislated beyond its powers. Not that this *decree* made any mention of a large, offshore archipelago 300 miles to the east of Patagonia.

Meanwhile, in Europe, Spain's political situation continued to cause concern. Ferdinand's repressions in his pursuit of absolute monarchy saw him imprisoned in 1820. France, its own monarchy so recently rehabilitated, determined to restore Ferdinand to his full authority. That needed the consent of others, who viewed Paris's intentions with some suspicion. A congress was called in 1822 to consider the issue. Attending, Lord Londonberry recognised that Spain's colonial history was likely to be pertinent. So he tasked a junior clerk, Woodbine Parish, to collate all that was known. Washington was also concerned. It sent a Minister Plenipotentiary, Caesar Augustus Rodney, to Buenos Aires in January 1823. His task, once again, was to consider the question of official recognition. A potential protection against French pretensions in the americas. Britain reached a similar decision. Chosen as Consul-General to the United Provinces in October 1823 was the well-informed clerk, Woodbine Parish. His job was to negotiate a commercial treaty.

Then, in December 1823, US President Monroe upped the ante.

> *"... as a principle in which the rights and interests of the United States are involved, that the American continents, by the free and independent condition which they have assumed and maintain, are henceforth not to be considered as subjects for future colonization by any European powers... We owe it, therefore, to candor and to the amicable relations existing between the United States and those powers to declare that we should consider any attempt on their part to extend their system to any portion of this hemisphere as dangerous to our peace and safety. With the existing colonies or dependencies of any European power we have not interfered and shall not interfere. But with the governments who have declared their independence and maintained it, and whose independence we have, on great consideration and on just principles, acknowledged, we could not view any interposition for the purpose of oppressing them, or controlling in any other manner their destiny, by any European power in any other light than as he manifestation of an unfriendly disposition toward the United States..."*

Britain's Foreign Secretary did not fully approve of what would become known as the Monroe Doctrine. The more so as he recognised that it was mostly bluster. Unenforceable without the Royal Navy. Also subject to partial US interpretation – as Argentina would discover. Ferdinand was restored to his throne and power but too late. He had lost South America. It would be another decade before Spain accepted this reality.

Schofield

Cattle ranches south of Buenos Aires suffered from drought conditions in the early 1820s. Quality was reduced while prices remained high. There is a story. It goes like this. Sensing an opportunity to make money, two residents of Buenos Aires reached an accord in August 1823. They agreed to apply for a licence from the local government to hunt the wild cattle on Soledad Island. There is another version. That has it that the suggestion of hunting

Soledad's wild cattle was first suggested to one of these residents in 1820. By politician Martín Rodríguez. [118] What certainly happened, was that three men made a deal. Jorge Pacheco was a 62-year-old Buenos Airean; a retired Captain. Related by marriage to an ex-*comandante-gobernador* of the old Soledad garrison. He knew of the wild cattle. Whether he knew in 1820 or 1823 is not very important. Luis Vernet was 32. Born in Hamburg of French Huguenot stock. Vernet had passed through Portugal and the USA in search of business opportunities before arriving at Buenos Aries in February 1818. On the same ship as the US Commissioners. In Buenos Aires, he had founded a profitable trading company before moving into the cattle business. Less profitable with the drought. The accepted version has it that Vernet lent money to Pacheco in 1819; a debt which had risen to 2,000 silver pesos by 1823. A debt which Pacheco could not pay off. Vernet would also seem to have been a creditor to the third man. An Englishman, Robert Schofield. He had arrived in Buenos Aires, with his family, in January 1821. Schofield's wife was given to understand that it was her husband that had come up with the whole hunting cattle idea in late 1821. [119] A man with few obvious talents, Schofield was both a liar and an alcoholic. A businessman he was not. Three associates, two owing one money. Another element of the original story is that somehow the Province of Buenos Aires owed Pacheco around 100,000 silver pesos. How such a large sum had come to be owed never formed part of the story. In this drama, Pacheco's deal with Vernet was that the German would support him in exchange for 50% of the money expected to be paid, eventually, from the Provincial government. 50,000 in payment for 2,000. A story which rather sounds, like a story. Vernet's story, in fact.

What there is no doubt of, is that Pacheco submitted a request for a *usufruct* (licence) from the Provincial government on August 23rd, 1823. Supposedly, a licence to kill wild cattle on Soledad.

> *"The island of Solitude, one of the seven with the general name of Malvinas, abounds in seals, and must have some cattle and horse, which are abandoned on the Island: the roughness and rigidity of its climate has it deserted, and at the disposal of one or another foreign navigator, who may wish to occupy it at any moment:..."* [120]

> *"On this point, your petitioner directs his speculation towards exploiting the skins and oils of sea lions, as well as the meat of cattle of proper age and condition; to that end reconstructing the buildings of the old penal settlement and compromising himself to deliver them in serviceable condition to the Government should it believe the rehabilitation of that settlement convenient."*[121]

Never published in full. From the quotes that are available it is immediately plain that this was more than a wild cattle hunt. Sealing as well. The repair of the abandoned Soledad garrison site? And then that intimation that without action, another could beat Buenos

118 *Una Tierra Argentinas: Las Islas Malvinas* R. R. Cailet-Bois 1982 (6th ed.)
119 *Protest of Schofield's widow – December, 1832* in *FO 6/499*
120 Quoted from Pacheco's letter in Caillet-Bois (6th ed.) 1982 p.194
121 Quoted in *Elemenotos para la Historia de nuestras Islas Malvinas* A. Gómez Langenheim 1939

Aires to an occupation. Effective occupation, remember, equalled sovereignty.

On the face of it then, three businessmen adventurers. And something else, perhaps. Fortuitous certainly as only five days later, on August 28th, 1823, the licence met with approval. Signed, coincidently, by Martín Rodríguez, the very man who may have suggested a similar scheme to Pacheco in 1820. Also signed by Bernardino Rivadavia. A rare administration indeed, where the Governor and Chief Minister issued licences to go to a place that others hunted with impunity. Without permit or restriction. That said, the response was somewhat equivocal.

> *"It not being within the power of the government to concede an exclusive privilege, or any right of property in the lands referred to, but nevertheless desiring to reconcile the interests of the petitioner within the limits of the authority it exercises, it concedes to him the permission that he requests to go to the Island of Soledad, one of the Malvinas, to make use of it in the terms that he has proposed, but in the knowledge that such a concession can never deprive the State of its right to dispose of that territory of the world as it might consider to best serve the general interests of the province, ..."*

Hard to avoid a fleeting suspicion that the whole event was orchestrated. Rodríguez had been Governor of Buenos Aires in September 1820. Six months after Jewett sailed, and two months before the Colonel arrived in Berkeley Sound. There is no evidence that connects them other than both Rodríguez and Jewett had been in Buenos Aires in March 1820. Whatever the circumstances underlying Pacheco's application, his venture to the island of Soledad – Spain's island – was authorised. According to the accepted narrative, the agreement between Pacheco and Vernet allowed for the endeavour to be sub-contracted. And so it was, the very day after approval. Sub-contracted to Robert Schofield. Pacheco agreed to hand the whole enterprise, with which he apparently hoped to restore his fortune, to a drunk. Albeit, an English drunk. Vernet, in the middle, would appear to have been in for half of Pacheco's profits while whatever Schofield made could be set against his debts. A good deal for Vernet in any event. Provided all went as planned. All did not.

Schofield's part was to provide two ships, which he did. Both were unseaworthy and one carried debts which Vernet had to pay off in order to free the vessel for service. Schofield was also responsible for the purchase of sufficient supplies for the expedition which he was to lead. He was not trusted enough, however, to go without oversight. This was the responsibility of another military man, Pablo Arequati. He was employed to watch over Vernet's interests. Such was the situation on December 18th, 1823, when, with preparations well advanced, Pacheco submitted a further petition to the provincial government. This called for Areguati to be granted an official title. *Comandante-gobernador* perhaps?

> *"... That the expedition being about to weigh anchor for the Port of Soledad in the Malvine Islands, in order (to) improve that Island.., Don Pablo Areguati, late Captain in the Army,*

goes out with the same ... and, as for the purpose of making itself respected both by the natives and by foreign vessels as also of promoting the Interests of the State and of (the) Petitioner, it is desirable that there should exist some authority. Your Excellency is requested to be pleased to confer upon Don Pablo the title of Commandant of that point, without salary. Thus will not only that deserted island be taken possession of, but the foreign shipping will be made to pay the duty of anchorage of which an exact account will be rendered to the treasury for Areguati intends to form a militai and to officer it properly, in order that the settlement may make an appearance worthy of the mother country, to which end he takes out arms and ammunition on account of those concerned; and if Your Excellency would be pleased to direct some iron ordnance to be shipped it would serve as a defence against pirates in those deserted regions, and might also be of use if the Government should wish to have prisoners sent thither. It is my design to carry sheep to the settlement, and to lay out pasture grounds sufficient for about 2,000 merinos, in order to spread their breed all over those islands. ... Accordingly I supplicate Your Excellency in right of your high authority to grant me the necessary lands and to order the above commandant to give me possession of them as I am a citizen of this Province and am willing to defend that territory as a sacred property of this State. ..." [122]

From hunting cattle and seals; and rebuilding Puerto Soledad, to a military command within a mere four months. The partners must have been lucky once again as an official response arrived that very same day. Buenos Aires reserved its position on all the points in the letter excepting the request by Pacheco for a grant of '*necessary lands*.' Granted but not defined. No title, at that time, for Areguati. Licences did not need publication in the official public gazette, but any title would have to been recorded there.

Raphael sailed with supplies on December 27th, 1823. Followed by *Fenwick* two weeks later, carrying Areguati, 25 gauchos and horses. After a difficult passage, the two ships met up on Soledad Island on February 2nd, 1824.

"... we have arrived … with only five skinny horses, all injured on the ship because they did not fit. With them we can not even survey the field. On foot, we have gone up to five leagues, and we find no cows, only bulls (in groups) of four or six... We are without meat, without ship's biscuits, and without gunpowder for hunting. We support ourselves by chance captures of rabbits, since there is no fat meat since we cannot go out to slaughter as there are no horses. I have resolved to tell you that we are perishing. We stay under boards during the worst of the cold and snows at this time; we have no Boat to go to the Island to cut straw, as no one from the two Ships will give me one since they need them." [123]

Plans for *Raphael*, armed for the purpose, called for a seal hunt. Stores unloaded, the ship sailed out. Never to be seen again. *Fenwick* then sailed for the South American coast to get replacement horses, leaving Areguati marooned for a while. On trekking to the old Spanish garrison site in Berkeley Sound, Areguati found it in ruins. This appears to have been

122 *Pacheco to Rodriguez December 18, 1823* in *FO/78/1/33 & 34*
123 *Ibid.*

unexpected. Little in the way of shelter and more for the already disenchanted gauchos to complain about. They promptly refused to work. Matters were not improved with the arrival of a British sealer, *Adeona*, under Capt. Andrew Low. His intention was to salvage wood from a hulk in the Sound. Areguati demanded a mooring fee. That was downright foolhardy.

> *"The Brig Adiona (sic) of Grenock (sic), which came here a few days ago, … now threatens to denounce us as pirates to the English Government. ..."* [124]

Some relief arrived on March 26th, 1824, when *Antelope* appeared. This brought out Schofield, his family, and six horses. Twenty not having survived the voyage and only three fit for work. Also aboard was Emilio Vernet carrying, according to the story, the title of *commandante* for Areguati. Finally granted by Buenos Aires. If so, no record has survived and there is no evidence that it was ever bestowed on him. Areguati was not a happy man. Nor were the craftsmen that he had employed to repair the Soledad garrison. A month later, Schofield abandoned the venture, sailing off in *Antelope*. With most of the expedition's supplies. He would later claim to have been so drunk that he had no memory of giving any order to leave. A month after that, in May 1824, *Fenwick* returned. With few horses, fewer supplies and nothing to show, Pablo Areguati and Emilio Vernet departed on it two weeks later. June 7th, 1824, they sailed away, leaving behind just eight gauchos to hunt cattle. Those last gauchos were taken off by another British sealer six weeks later, *Susannah Ann*. The Pacheco/Vernet/Schofield expedition had been a total disaster. *Raphael* had vanished, presumed lost. *Fenwick*, on its arrival at Buenos Aires, had to be sold to pay wages. If the venture had been a cover for a Buenos Airean take-over of East Falkland Island, then that was also a failure. Could there have been such a project? Eight years later, Luis Vernet commented upon the endeavour with a passing reference to Jewett's 1821 claim.

> *"Don Jorge Pacheco and myself, convinced of the right of this Republic, and seeing it recognised by the tacit and general consent of all Nations during the 3 preceding years, solicited and obtained from the Government the use of the Fishery, and of the Cattle on the Eastern Malvina Island, and likewise tracts of land thereon, in order to provide for the subsistence of the Settlement we should establish there..."* [125]

Had Areguati and Schofield waited but a week or so they would have seen HMS *Rinaldo* sail up Berkeley Sound. Perhaps in response to a complaint by one Capt. Andrew Low. Finding nothing, Britain's Royal Navy did not stay.

> *"... a Mr. Schofield, an Englishman, brought gauchos and horses from Buenos Aires for the purpose of catching the wild cattle, which had multiplied and spread themselves all over the East Falklands; but he failed in his speculation."* [126]

124 *Emilio Vernet to Louis Vernet April 8, 1824* in *AGN Sala VII legajo 132 Doc 8*

125 *Report of the Political, and Military Commandant of the Malvinas (Informe del Comandante Politico y Militar de Malvinas)* Luis Vernet 1832

126 *Remarks upon the Present State of the Falkland Islands, by Commander Robertson of His Majesty's Sloop*

7

Trespass

"The Buenos Ayres government has taken possession of the Falkland Islands, which, with Tierra del Fuego, are erected into a military government, the seat of which is fixed at the island of La Soledad." [127]

As events at Soledad played out, Britain's new Consul-General arrived in Buenos Aires. Woodbine Parish presented his credentials on April 5th, 1824. As did Charles Griffiths.

> *"… Mr. Parish, the Consul-General, and Mr. Griffiths, the Vice-Consul, were received for the first time at the House of the Government by Senor Don Bernadino Rivadavia, Minister of State for Foreign Affairs, when they presented their credentials … it is the first official Document from Europe, in which the Government of the Country is addressed in a direct manner suited to the character which this Country has been endeavoring to deserve these 15 years..."* [128]

In London, George Canning believed that recognition was the best protection Britain could offer America's fledgling nations. First, though, Britain's Foreign Secretary needed to know what it was he was recognising. Parish was well informed about Spanish colonial history but, before departure, Canning spoke to him. Specifically, Canning laid out his requirements. What a territory needed, to be seen as a nation.

> *"... substantially capable of maintaining an independent existence, of carrying on a government of its own, of controlling its own military and naval forces and of being responsible to other nations for the observance of international laws and the discharge of international duties. These are questions of fact."*[129]

Parish received his *exequatur* on April 7th, 1824, confirming his official capacity. From a government that Parish soon realised existed in name only. On April 12th, he was invited to an interview with the 'Foreign Minister' of the United Provinces. Coincidently, Bernardino Rivadavia was also Chief Minister of Buenos Aires Province. Parish asked those questions he needed answers to for Canning. Followed by a request to see the nation's Constitution and a map of the country. Rivadavia assured Britain's Consul-General that his Ministry would provide all the information requested. Rivadavia then resigned. A month later, Parish repeated his requests to the 'Chief Officer of the Ministry of Foreign Affairs', Don Ygnacio Nuñez. Again he received assurances. Unconvinced, Parish wrote separate letters to each of the provincial governments. In particular, he wished to know what territory they

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Snake January 1835 ADM 1/43

127 *London Evening Standard Thursday September 3 1829*

128 *Buenos Ayres Gazette* April 5, 1824

129 Quoted in *The Creation of States in International Law* J. Crawford 2007 (2nd ed.)

claimed. What areas they had under their control.

> *"(His) Majesty's Government being desirous to obtain the most accurate Information, with respect to the actual State of these Provinces, I have the honor to request that Your Excellency will do me the Honour to furnish me with such Information with respect to the Extent, Population, Productions, and Resources of your Province, as you may consider it may be desirable to His Majesty's Government to be acquainted with... If any good Geographical Map is to be obtained of the Province, I should also be glad to be furnished with a Copy thereof."* [130]

Responses arrived from the Provinces. None of them identifying Soledad Island or any part of the archipelago as under their control. The reply from Buenos Aires arrived on June 15th. That document purported to speak for the whole nation; including outstanding claims to Paraguay, Upper Peru and the Banda Oriental (Montevideo). It did not mention Soledad or the Falklands. Ygnacio Nuñez placed the most southerly of the UP's borders at latitude 37.5° S, plus 50 leagues (150 miles). Fifteen degrees of latitude further north than the Falkland Islands. [131] An official response to a diplomatic request. These were the answers Canning needed to enable the British Government to make a decision. To know what the UP consisted of. Later suggestions that Britain recognised the Falklands in 1825 are then, negated by the failure of any UP Province, or Buenos Aires, to mention the archipelago. Parish bundled up all the responses and sent them to London.

> *"The United Provinces of la Plata, or, as they are sometimes called, the Argentine Republic, comprise, (with the exception of Paraguay and the Banda Oriental, which have become separate...) the whole of that vast space lying between Brazil and the Cordillera of Chile and Peru, and extending from the 22nd to the **41st** degree of south latitude. The most southern settlement of the Buenos Ayreans as yet is the little town of Del Carmen, upon the river Negro."*[132]

In a private letter, Parish advised Canning that the United Provinces were anything but. No central administration. No unifying constitution. Uncontrolled and lacking any national military force. Britain's Consul-General went as far as to suggest that it would be more prudent to recognise each of the larger provinces as separate nations.

Canning was already aware that there were problems. In early June 1824, Buenos Airean General, Carlos Maris de Alvear, arrived in London; seeking British support against threats emanating from Madrid. He spoke to Canning of the UP.

> *"What is now understood by the State of Buenos-Ayres, is the Territory which composed the ancient Vice-royalty of that name. … Buenos Ayres, Montevideo, Paraguay, Cordova,*

130 *FO/6/3/211*

131 *An account, historical, political and statistical, of the United Provinces of Rio de la Plata, with an appendix concerning the usurpation of Monte Video by the Portuguese and Brazilian governments* Ignacio Nuñez 1825

132 *FO/354/7 Woodbine Parish Papers.* My emphasis. The Falklands' archipelago are situated below latitude 51° S.

Mendoza, Tucuman, Salta, Santa-Fe, Corriente, La Rioja, Catamarea, Santiago del Estero and Entre-Rios. ... The present State of Buenos Ayres is composed of the same Territory that it comprehended under the Spanish Dominion, with the recent addition of the establishments on the Patagonian Coast." [133]

Canning was both unimpressed with his visitor and unbelieving. He had, however, a bigger problem. Word from over the Channel described a general feeling among European nations that Spain should be restored to its Empire. Recognising the danger, political necessity came to the fore. So it was that, despite the doubts, on August 23rd, 1824, Woodbine Parish received a promotion. To Minister Plenipotentiary. His new instructions to conclude a speedy accord with the United Provinces. Something to nip Spain's ambitions in the bud. To give Parish a head start, Canning delayed informing the USA until the penultimate day of December 1824. Spain told the following day. Three weeks after that, Madrid's formal protest arrived in London.

"As to Buenos Ayres, England herself hardly can tell who it is that commands, or what form of Government exists there at present. ... H. M. declares also, that if, ... the Gov, of H. B. M. shall persist in carrying into effect the conclusion of Treaties of Commerce with them, and the consequent diplomatick recognition which the communication of the English Minister announces, H. M. protests and will protest in the most solemn manner against these measures, by which the Treaties existing between the two Powers will be violated and the legitimate and imprescriptible Rights of The Throne of Spain attacked in the most serious manner." [134]

Buenos Aires was desperate for some formal recognition. Washington's envoy had been slow to reach an accord, but then that lack of central authority was a problem for the US too. If not a united country, perhaps a united face would do? A hastily arranged Congress of the disparate Provinces came up with an answer. They agreed, with much argument and some reluctance, to allow Buenos Aires to speak for all of then in negotiations with Parish. A temporary accommodation at most. Only for the time it took to get a treaty. Despite that limitation, it was a responsibility that Buenos Aires would, ever after, consider its own.

On February 2nd, 1825, a Treaty of Amity, Commerce, and Navigation was signed. A commercial treaty only. No acknowledgements of sovereignty or recognition of territory. All that was recognised, was the *de facto* reality of the UPs existence. No *de jure* (legal) right. General Juan Gregoria de las Heras ratified the accord on February 19th. Griffiths and Nuñez took the documents to London three days later. Bernardino Rivadavia, in London on business, was designated the UP's Minister Plenipotentiary. Not that Canning was much impressed by him either. London ratified on May 10th, 1825. Britain's Minister would be

133 Alvear interview in *Public Records Office – FO/6/6/53*

134 *Francisco de Zea Bermudez, Minister of Foreign Affairs, to His Britannic Majesty's Charge d'Affaires, Madrid*

Lord Ponsonby. On March 25th, 1825, Foreign Secretary Canning finally responded to Spain's protest.

> *"Has it ever been admitted as an axiom, or ever been observed by any nation or Government, as a practical maxim, that no circumstances, and no time, should entitle a de facto Government to recognition? … M. Zea concludes, with declaring that His Catholic Majesty will protest in the most solemn manner against the measures announced by the British Government, as violating existing Treaties; and the imprescriptible rights of the Throne of Spain. Against what will Spain protest? It has been proved that no Treaties are violated by us; and we admit that no question of right is decided by our recognition of the New States of America. …"* [135]

No question of right had been decided. [136] Canning was recognising the reality on the ground, while avoiding questions of legitimacy. A commercial agreement. Formal recognition would finally be granted by Britain only in 1850; by Spain in 1863. Most other European nations followed Spain.

Vernet

None of this political manoeuvring appeared to benefit Luis Vernet. Once the final accounts were in, he stood out of pocket from the 1824 venture by some 29,000 pesos. Schofield was drinking himself to death while Pacheco, with his land grant unsurveyed, was still living off his German partner. So the story goes. So, Vernet saw that his only chance to recoup his losses was to grasp the nettle and try again. He found investors, but a war against Brazil was on the verge of breaking out. It did not take much foresight to see that the Rio de la Plata would be blockaded. Added to that was Areguati's experience with sealing captain Andrew Low. A different strategy was clearly required to deal with obstructions. So, Pacheco signed his *usufruct* over to Vernet under contract. That way, Vernet avoided any need to approach the provincial government on his own behalf. Then, he arranged to transfer that licence to Green & Hodgson. A legally constituted British company of merchants. In October 1825, the Buenos Airean *usufruct* was made-over to them. Reversible by a post-dated second contract cancelling the transfer. Presumably, Vernet had to pass himself off as an employee of Green & Hodgson, but the paperwork was convincing. Enough to allow passage through a Brazillian blockade? Enough also to deal with troublesome whalers? Perhaps. Better, would be an official British stamp. So, on January 3rd, 1826, Vernet took the company papers along to the British Legation in Buenos Aires. There he persuaded the Vice-Consul, Richard Poussett, to certify the signatures of Green & Hodgson as genuine. Which they were.

> *"I got certified by the British Consulate at Buenos Aires, with no other intention at the time*

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135 *Canning to Zea March 25th, 1825*. Original in Spain's *General Archivo de Indias ES.41091. AGI/21//STATE, 91, N.42*

136 For a discussion on Canning's viewpoint see ***The Creation of States in International Law*** (2nd ed.) J. Crawford 2007 p.378

than to ensure respect (as to their authenticity,) from foreigners who might touch at the islands,.."[137]

To look at it another way; a German turned up at Britain's offices and requested confirmation that two British signatures were genuine and corresponded to an established British company. It seems that Vice-Consul Pousett signed the papers. Although he did not append the consulate stamp or write out a certificate. Nor was any entry made in the consulate records. If evidence of anything, it would be that Pousett recognised the signatures. Not that a bare signature is evidence of very much. The deception received a final polish with the chartering of a British ship, *Alert* (John Ure). This allowed Luis Vernet to pass unimpeded out of the Rio de la Plata on January 12th, 1826. Brazil did not have an argument with Britain.

Due to the conflict, horses were in short supply in Buenos Aires. Expensive too, so Vernet sailed to Carmen de Patagones to obtain them from there. He had gauchos on board, hidden in the hold as the ship sailed past Montevideo. He also carried enough supplies for a landing at Puerto Soledad. Unfortunately, negotiations for horses took longer than anticipated. Then Vernet found that *Alert*'s hold could only accommodate fifty. It was going to take more than one trip. So it was, on June 9th, 1826, later than expected, Vernet sailed into Berkeley Sound on the far northeastern coast of Soledad Island. Mid-winter in the South Atlantic found snow on the shores of the Sound. Never having seen it before, Vernet's gauchos took some persuading to leave the ship. Two days later, 35 surviving horses, all in poor condition, went ashore. On making his way to the old Spanish garrison site, Vernet discovered another 22 horses sheltering among the ruins. The last remains of the Schofield expedition. Harsh conditions caused the gauchos to reconsider their contracts and Vernet had to put down two rebellions within a short period. Some remained loyal. In particular, Jean (Juan) Simon, Manuel Coronel, and Aniceto Oviedo, who organised the erection of suitable shelters. Luis Vernet did not stay long, sailing back to the San Jose peninsula on September 9th, for more horses. His poor luck continued, with *Alert* forced to divert to Montevideo after it started to take on water. Deemed unseaworthy on arrival; Luis Vernet found himself back in Buenos Aires without a ship. His business 1,000 miles away.

Those that had remained on Soledad began the task of hunting cattle. Overseen by Emilio Vernet who started a record of ships arriving in Berkeley Sound. He recorded the arrival of London's *Uxbridge* (William Low) and *Port Captain* out of New York. Year's end revealed more sealers and whalers arriving to spend the winter. *Sprightly*, *Triton*, *Partridge*, and *Science*. Two British, one French and the last American. Emilio Vernet did not make Areguati's mistake. Anchorage fees quite forgotten. There is some evidence though, that he attempted to restrict the killing of wild cattle.

"... procured some fine beef at two pence per pound, from Don Vernet's brother (then there,)

137 *Vernet to Lord Stanley April 26, 1858* in *CO 78/43*

who sent it down in a whaleboat from the settlement, and with it a letter warning that officers (were) not to kill any of the cattle or wild pigs..." [138]

Back in Buenos Aires, Luis Vernet, found the political situation yet again in turmoil. Problems had arisen following a second attempt to unite the provincial governments with a Constitution. Rejected once again. Buenos Aires's demands for a pre-eminent position due to its control of imports and exports was the single biggest issue. Britain's Minister Ponsonby, who had arrived on September 15th, 1826, was not impressed with what he found. Rivadavia, better thought of by his countrymen than George Canning, had returned from England to be President of the dis-United Provinces. He survived 18 months. On stepping down, Rivadavia denounced the other provincial governments as rebels and anarchists. Once again the coalition of provinces split apart.

"*Rivadavia quitted his post in July 1827, and the national congress was dissolved*." [139]

Luis Vernet arrived back at Puerto Soledad at the end of May 1827, in *Idris*, but without horses. After an absence of 8 months, those he had paid for were not where he had expected to find them. The gauchos taking care of them on the San Jose Peninsula having given up waiting. Little had changed at Puerto Louis either. Some cattle had been killed, but horses fared badly on the broken ground and there were too few. Vernet stayed less than three weeks before departing again for the Rio de la Plata on June 19th, 1827. Ships passing through Berkeley Sound during September and October 1827 included *Uxbridge* (William Low) and *Adeona* (Andrew Low). There are no reports of any awkward encounters. No demands for fees. Other vessels included *Mercury*, *Decator*, and *Salmon* – a merchantman out of Boston. Once back in Buenos Aires, Luis Vernet attempted to resolve the question of Pacheco's land grant. Dependent upon a survey that had not taken place in 1824 the legal position of the grant was in limbo. Vernet persuaded Pacheco to write to the new Governor of Buenos Aires, Manuel Dorrego. He did so, requesting a specific grant of land in the eastern and south-eastern parts of Soledad Island. To the north of Choiseul Sound. There was no immediate reply on this occasion. Luis Vernet then submitted his own petition on January 5th, 1828. In this, he announced that a presence had been established on Soledad Island. Undertaken for the "... *prosperity and aggrandizement of this country* ..." Vernet added that he had thought it right to found a colony but was in need of protection. He then demanded a quid pro quo. A grant of the rights of possession and property to all the lands in the islands (plural). Excluding those areas already ceded to Pacheco. Going for broke, which he almost was, Vernet also asked for Tierra del Fuego and Statenland. And, as icing on his own cake, a tax-free period of 30 years; with an exclusive right of fishing. For all this, he promised to establish a Buenos Airean colony within three years.

138 Log of the *Hugh Crawford* of May 22, 1827 quoted in *The Museum of Foreign Literature, Science and Art* 1833 vol.22

139 *The Monthly Chronicle November & December, 1841*

"... It ought to be considered that Government, in permitting the establishment of a colony in the Malvine Islands on the above conditions, only resumes or recovers a Territory which in a manner was abandoned, but the acquisition of which by the Spaniards cannot extinguish the right of this Government to take possession of them. There is no other method of preventing other nations from executing their plans than the foundation of a Colony. The Governments of all civilized nations have such a right. The Malvine Islands being in a manner deserted must belong to the first occupant; they are situated entirely beyond the boundary of the Province. I have in the present application no other object that that Y.E. should acquire rights and should exercise your jurisdiction over those islands. I have pointed out the only manner of acquiring those rights. ..."[140]

Vernet did not only want to hunt cattle on Soledad; he wished to operate sovereign authority over a territory stretching from the Falklands to Statenland and Tierra del Fuego. From cattle trader to megalomaniac in less than five years. Approval for Vernet's petition was not slow in coming. Granted that very same day by General Juan Ramón Balcarce, Minister of War. The response was lawyerly.

"The Government, ... pursuant to the provisions of the law enacted the 22nd Oct, 1821 does from this moment grant to Don Luis Vernet, inhabitant, and merchant of this City, all the territory which in the Island of Soledad shall happen to be uncultivated, with the exception of those granted to Don George Pacheco by a Decree dated 18 December 1823, and which is ratified by the Decree of this day's date, the Government reserving to itself an extent of ten square leagues in the Bay of San Carlos, and in the Isle of Statenland: to the effect, and on the condition that within the term of three years from this date a colony shall be established, and that, after the expiration of them, information shall be given to the Government, for it to provide what it may deem expedient for the internal and external administration. And the Government desiring to contribute as much as possible to the establishment and prosperity of the Colony, Decrees likewise,

1 That the colonists shall be exempt from paying any kind of contribution, excepting what may be necessary for the support of the authority or authorities to be established, from all duties on shore and from all maritime imposts of exportation and of the importation of articles needed for the support of the Colony, for the term of Twenty years to be reckoned from the date of the expiration of the three conceded for the establishment of the Colony;

2 That for the like term of Twenty years, and with exemption from the payment of duties, the Colony shall enjoy the fishery near the two islands whose property is granted, in all the Malvine Islands, and on the coasts of the Southern Continent of the Rio Negro de Patagones;

3 That in case the population should extend to the other islands within the three years conceded for the establishment of those granted, the Director of the Colony shall be obliged to state it to

140 *FO 78/1/29 & 30 also FO 6/499*

the Government to enable it to provide what may be necessary..." [141]

Balcarce, an old associate of Martín Rodríguez, had long been active in Buenos Airean politics. Yet this reply stands out in claiming a legal foundation to the grants. Based on the *ultra vires* 1821 fishing law. A regulation that had not mentioned any islands. Neither had it received the sanction of any central government. Not that there had been many during the previous seven years. A local regulation only and far outside the power of Buenos Aires to make. Far outside the province of Buenos Aires too. To that can be added, that no attempt to enforce the regulation had ever been made. A fantasy fishing law which Balcarce was prepared to use to found legal authority for a colony on islands he had no control over. Vernet would later describe the response as conforming to the 'spirit' of the 1821 enactment. As with the 1821 regulation, this 1828 *decree* was *ultra vires*. Beyond the power of Balcarce to make. Not for publication then. Not for public consumption. No distribution. No announcement.

Yet publicity was what Vernet needed more than anything else. Something official to wave in the faces of doubters. So, on January 11th, 1828, in possession of a copy of the *decree*, Luis Vernet had replicas made by a well-known *Notary Public*, Josef Ramon de Basavilbaso. Then, on the 30th, Vernet took one of these to the British Legation in Buenos Aires. There he asked Consul Charles Griffiths to validate the signatures. Unlike Pousett, Griffiths wrote out a certificate and appended the Consul stamp. What was being certified was clear.

"These are to certify that the aforegoing is the true and proper hand writing of Don Josef Ramon de Basavilbaso, and that he is a Notary Publick practising as such in this City. In Testimony whereof I have hereunto set my hand and append the Seal of this Consulate to serve as occasion may require."

Griffiths signed to certify the handwriting of Basavilbaso. He did not 'legalise' an official document as is sometimes asserted because he made no reference to anything other than handwriting he recognised. Yet again, no Consular record exists. Nor is there any evidence that either Minister Ponsonby or Woodbine Parish were aware. In any case, Ponsonby was busy. Attempting to negotiate a peace between Buenos Aires and Brazil over Montevideo.

Back on Soledad, Emilio Vernet continued to do what he could with the men and horses available. On May 25th, 1828, in celebration of the events of May 1810 he held a party raising, for reasons unstated, two flags. The standard of Buenos Aires alongside Britain's Union flag.

With his *decree* in hand, Luis Vernet managed to raise enough funds to buy a polacca, *Luisa*. Then, in June 1828, he organised the shipping out of 31 indentured Negroes. Six of them children purchased for 160 pesos each. Sufficient funds also to charter an American ship,

141 *Public Records Office - FO 78/1/31-34*

Combine, to transport 65 horses. After an absence of 14 months, Luis Vernet arrived back in Berkeley Sound on August 29th, 1828; intent upon the formation of a Buenos Airean colony. With him were his wife and children, 15 English and 23 German settlers and additional gauchos.

Four days after his arrival, *Luisa* anchored with the indentured slaves. Keen on making progress, Vernet began the task of informing foreign ships that the rights of fishing around the islands now belonged to him. The reaction was unexpected. Ships simply stopped visiting Berkeley Sound. What did not cease were their sealing and whaling activities. Nor did they stop killing the wild cattle and pigs. Without means of enforcement, Vernet was impotent. His copy of an ungazetted and thereby unheard of decree, meaningless. Frustrated, after only three months, Luis Vernet left again for Buenos Aires. For a supposedly keen colonizer, he spent remarkably little time on Soledad Island.

Vernet landed in Buenos Aires on the last day of 1828. Political upheaval was the norm, so he may not have been surprised to find that a coup had taken place. British Minister Ponsonby had been busy, travelling to Brazil at the end of July 1828, to negotiate an end to the conflict. The Banda Oriental (Eastern Bank) had never recognised the authority of Buenos Aires or the UP after the monarchists left in 1814. Nor that of Brazil when that country invaded and seized the city in 1817 in assertion of its own pretensions. Ponsonby, however, successfully persuaded the two sides to recognise the Banda Oriental as an independent nation. A buffer State. Uruguay as it would become. Unfortunately, in settling one dispute, Ponsonby – completely unaware – started another.

Ponsonby's peace deal was reached just at the time the United Provinces's generals considered that they were winning. Finding themselves recalled with nothing to show did not go down well. Two armies crossed back over the Rio de la Plata. That led by Jose Maria Paz headed to Cordoba. The second, under General Juan Lavalle, took its grievances to Buenos Aires. Once there, General Lavalle deposed Governor Dorrego and assumed power. He presented himself to Parish and other foreign envoys on December 3rd, 1828, as the new Governor of Buenos Aires. They stalled. Doomed from the start, Lavalle's government almost immediately came under pressure from forces controlled by General Juan Manuel de Rosas and the deposed Dorrego. The latter was betrayed and captured. And then shot. Martyred. With the Provinces once again at each others throats, Lavalle achieved nothing. Surviving just long enough to start an interminable dispute with Britain before retiring to Montevideo.

> *"In Buenos Ayres, again, the termination of the war was the commencement of ruinous and disgraceful civil dissensions, in which nothing was respected but force, and the people allowed themselves and their government to be made the sport of military adventurers."* [142]

142 *Annual Register 1829* p.238

First Warning

Before defeat, however, the first months of 1829 found General Lavalle continuing to deal harshly with anyone who opposed him.

> *"Treatment of Prisoners – Three of the prisoners captured in the action on the 7th Feb., were shot on the 10th March. The Chief Mesa had been shot on the 16th Deb. "Of the remainder, some have been condemned to hard labour, to be transported, &c., for the term of seven years, at present to the Island of Martin Garcia, until the establishment at the Islas Malvinas (Falkland Islands) is to be arranged, to which place the prisoners are ultimately to be sent, to fulfil their term of banishment." ..."* [143]

This news journal entry caught the eye of Woodbine Parish. As did an announcement a few days later that Lavalle, in desperate need of troops, intended to form a new battalion. To be made up of foreigners living in the city. Contrary to previous agreements preventing this. Concerned at developments, Parish wrote to London on March 15th, 1829.

> "*In a sentence lately passed upon some Convicts, ... it was expressed that they were to be banished to Martin Garcia; "until the establishment at the Falkland Isles should be ready for their reception." This, and the circumstances of this Government having taken upon itself at various times to grant to individuals privileges to form temporary Settlements in those Islands for the purposes of Sealing and taking the Wild Cattle which are to be found there, induces me to bring the pretensions of this Government to the Sovereignty of those Islands under your Lordships notice, not being aware that His Majesty has ever formally relinquished his ancient claims to them, …"* [144]

Not the only letter on its way to London. On March 13th, 1829, HMS *Tribune*, a British frigate of 42 guns, had arrived in Berkeley Sound. The ship had been searching for pirates in the South Atlantic. Captain Wilson noted the presence of some 50 Buenos Airean settlers at Puerto Soledad, subsequently reporting to Rear-Admiral Sir Robert Otway at Rio de Janeiro that he found East Falkland in possession "*of a German overseer named Vernet...*"

A third letter, was written in April 1829. This was from William Langdon who operated a merchant ship between England and New South Wales.

> *"I was in Berkeley Sound ten months ago and found the islands held by a German director and about 20 men …, [who] had been sent there by a company of merchants of Buenos Aires*

143 *El Tiempo, Buenos Aires, March 7, 1829* reported in the *Morning Advertiser Saturday June 13, 1829*
144 *FO 6/499 Dispatch No.17*

[which] obtained a concession from the government of that state, and its aim was to kill the cattle to remove the skins..." [145]

Woodbine Parish led the international protests against Lavalle's conscription decree, forcing the General to rescind the order. He backed down with no little bad grace and resentment. But Parish did not stop there. Realisation had dawned that something was happening in the Falklands. Disturbed by the March news report, Parish investigated; discovering that the provincial government had been making land grants. That Parish was asking questions reached the ears of Luis Vernet, who sent a note to Parish on April 20th, 1829. This contained copies of all the various papers from 1823. Apparently, Vernet saw an opportunity to establish his *bona fides*.

"There exists now in Soledad Island 10 white inhabitants, 10 seafaring men, mostly English and Americans, 18 Negroes indentured for 10 years, 12 Negro girls, 52 in all, a brother and brother-in-law of Mr. Vernet. There are prepared to embark for the Falklands, eight families including Mr Vernet, and seven single men - Germans. 33 individuals in all. There are going to Staten Land 4 families and 6 single men – English. In all 18 Individuals. 103 people in all."[146]

Parish sent everything to London with a covering letter on April 25th.

"... upon the subject of the Falkland Islands, I now enclose for your Lordships information copies of the Grants which have been made by the Government of Buenos Ayres of the Isle of Soledad, as well as of Staten Land, whereby your Lordship will observe the terms upon which a Mr Charles (sic) Vernet has undertaken to form Settlements in those places. I have procured these papers from Mr Vernet himself,... The chief object however at present is to increase the stock of Cattle which he has found in Soledad, and which he calculates at from 15 to 20,000 head. He would I believe be very happy if His Majesty's Government would take his Settlement under their protection:- He sails for the Falklands with his family in about a month, and intends to pass he says some years there in promoting the objects of this Colony." [147]

"... for the information of the British Government, and in order to shew them the good faith with which your Memorialist was acting, (I) handed to the British Charge d'Affairs, Sir Woodbine Parish, translations of these Grants, and at the same time stated to that Gentleman, your Memorialist's exact position and the Title under which he held the Eastern Island, and represented to him that if the Islands should ever come under the British flag, (in which case your Memorialist felt assured that his rights as first Settler, would be fully acknowledged), he would be most happy to render his best services towards the Colonization of them and the General

145 *FO 78/1/54*
146 *Parish to Aberdeen April 25, 1829* in *FO 78/1/16-18*
147 *FO 6/499 & FO 78/1/16*

prosperity of the Islands, as a British possession..." [148]

Vernet was clearly a man of flexible loyalties. Even so, what Vernet needed more than anything was a means of enforcement. Effective control over the wild cattle and the sealing grounds of Soledad Island.

General Lavalle's fortunes were fading in the face of the threat from Rosas, but in the chaos, Vernet saw an opportunity. On June 9th, 1829, Luis Vernet submitted to the collapsing Lavalle government a petition requesting an armed fishery protection vessel.

> *"The Honorable Board of Representatives, in previous years, issued a law on the protection of fishermen and our nationals, it has had no effect, however, because it is indispensable, (that) a warship patrols those seas where foreign ships have enjoyed the most complete freedom in fishing to the detriment of the inhabitants and the State that could have reported immeasurable profit if it had been dedicated to collect the (tax) per tonne that (was) established (by) that law. It is very appropriate that a small ship be placed at my disposal with a rotary canon with the sole object of it pursuing to the enforcement of (our) rights,.."*[149]

As on previous occasions, the response was swift. More, its contents went further than expected. That which came in answer to Vernet's petition the following day, June 10th, 1829, was about sovereignty, not fishing. But then, one signature was by an old friend who had returned to Buenos Aires – Martín Rodríguez.

Political and Military Command of the Malvinas

> *"When by the glorious Revolution of May 25, 1810 these Provinces separated themselves from the Dominion of the Mother Country, Spain held the important possession of the Falkland Islands, and of all the others around Cape Horn, including that known under the name of Tierra del Fuego; that possession being justified by the right of being the first occupant, by the consent of the principal maritime powers of Europe and the proximity of these islands to the Continent that formed the Viceroyalty of Buenos Aires, unto which government they depended. For this reason, the Government of the Republic having succeeded to every right which the Mother Country previously exercised over these Provinces, and which its Viceroys possessed, continued to exercise acts of Dominion in the said Islands, its Ports and Coasts, notwithstanding circumstances have hitherto prevented this Republic from paying the attention to that part of the Territory which, from its importance, it demands. Nevertheless, the necessity of no longer delaying such precautionary measures as shall be necessary to secure the rights of the Republic; and at the same time to possess the advantages which the productions of the said Islands may yield, and to afford to the Inhabitants that protection of which they are entitled, the Government has agreed and decreed, as follows:*

148 *Vernet's Memorandum Presented 7, May, 1852* in *CO 78/43*
149 Quoted in Caillet-Bois 1982 p.209

Article 1:- The Falkland Islands and those adjacent to Cape Horn in the Atlantic Ocean, shall be under the command of a Political and Military Commander, appointed immediately by the Government of the Republic.

Article 2:- The Political and Military Commander shall reside in the Island de la Soledad, on which a Battery shall be erected under the Flag of the Republic.

Article 3:- The Political and Military Commander shall cause the Laws of the Republic, to be observed by the Inhabitants of the said Islands, and provide for the due performance of the Regulations respecting Seal Fishery on the Coasts." [150]

Signed by two Ministers, Martín Rodríguez and Salvador Maria del Carril, this decree granted a governorship instead of a warship.

A claim of sovereignty justified by Spain's supposed:

1) *right of being the first occupant*, although France had been the first to settle, followed by England and then, in third place, Spain;
2) *consent of the principal maritime powers of Europe* although who was not stated. A reference to France perhaps. Spain, Holland, and Britain had been Europe's principal maritime powers in the 18th century. Neither Holland nor Britain consented to Spanish occupation in 1767.
3) *proximity of these islands to the Continent that formed the Viceroyalty of Buenos Aires*. Spain's la Plata Viceroyalty had been 1,000 miles away and most certainly could not have been described as a continent. At some 100 leagues from the South American coast, no other nation of Europe supported Spain's contention that the archipelago qualified as adjacent.

Misinterpretations of Spanish history.

Contrary to its delusions of grandeur, Buenos Aires did not replace the Viceroyalty of the Rio de la Plata. Before the events of May 1810, the city had been one of eight *intendencies*. The Viceroyalty's capital city between 1776 and 1810 certainly. After 1810, however, the Viceroy's capital had moved to Montevideo. So, the Banda Oriental was the last seat of the Viceroyalty of the silver river and it was from Montevideo that the last administration of the Soledad garrison had taken place. If there had been a successor to the Viceroyalty, it would have been Montevideo, not Buenos Aires. Not that there was any recognition of such a theory of succession in the 19th century.

In 1829, Spain still maintained all its claims; Ferdinand would take them to his deathbed in 1833. This *decree* of June 10th, 1829, was published in the official Gazette. A first public declaration of Buenos Airean pretensions to the archipelago. By Buenos Aires. Not the United Provinces. There was still no central government in the disunited UP. Another *decree*

150 *British & Foreign State Papers 1831-1832 p 314*

was issued that same day. It bestowed command of the islands upon Luis Vernet, but was not published. Much to Vernet's annoyance.

> *"The Government of Buenos Aries having decreed on this day that the Malvinas Islands adjacent to Cape Horn in the Atlantic sea be ruled by a political and military commander and keeping in mind the capabilities of Luis Vernet, has decided to appoint him, as it is being done by means of this document, for said position as Political and Military Commander of the Malvinas, bestowing on him all the authority and jurisdiction necessary to fulfill his job."* [151]

No reasons were given, but Vernet still desperately needed something to prove his authority. So he had a seal made. He then prepared some basic maps of East Falkland; intending to offer plots of land for sale. Before setting out on a charter, *Betsy*.

151 Quoted in *Sintesis de la Geografia y la Historia de las Islas Malvinas, Georgias y Sandwich del Sur* L. H. Destefani 1982

Eddystone
Cabo Bo Efen
Ensenada Nordeste
Sec. VIII
Sec. VII
Sec. VI
Sec X
Peninsula de
Maria
Sec. IX
Sec. XI
Seccion Nº I
Peninsula de
San Luis
Seccion II
Seccion III
Tierra del Estado
Bahia Grande
Punta Lista
Reef I.
Fuego
Hagane I.
Sec. IV
Sec. V
Sec. III
Sec. II
Sec. I
Pt. Plaza
Pt. Pleasant
Pt. Tongue
Pt. Tree
Pt. Vernon
Pt. Pembroke
Port Egmont
Port Edwin
Port William
Bay
Pt. Celebron
Pt. Rosario
Pt. Estanco
Pt. Cabrito
Pt. Barrancas
Pt. Tamar
Pt. Mercedes
Pt. Meadow
Pt. Arenales
Pt. Dolphin
Pt. Chevert
Pt. Volunteer
Pt. Sea Lion
Pt. Blackrock
Pt. Bluff
Pt. Bluff rocks
Pt. Bluff sand
Pt. Bluff Bay
Pt. Bluff Harbour
Pt. Bluff Island
Pt. Bluff Point
Pt. Bluff Reef
Pt. Bluff Shoal
Pt. Bluff Channel
Pt. Bluff Anchorage
Pt. Bluff Entrance
Pt. Bluff Exit
Pt. Bluff Passage
Pt. Bluff Strait
Pt. Bluff Sound
Pt. Bluff Inlet
Pt. Bluff Cove
Pt. Bluff Creek
Pt. Bluff River
Pt. Bluff Lake
Pt. Bluff Pond
Pt. Bluff Swamp
Pt. Bluff Marsh
Pt. Bluff Bog
Pt. Bluff Fen
Pt. Bluff Moor
Pt. Bluff Heath
Pt. Bluff Wood
Pt. Bluff Forest
Pt. Bluff Grove
Pt. Bluff Copse
Pt. Bluff Thicket
Pt. Bluff Brake
Pt. Bluff Scrub
Pt. Bluff Bush
Pt. Bluff Shrub
Pt. Bluff Tree
Pt. Bluff Stump
Pt. Bluff Log
Pt. Bluff Branch
Pt. Bluff Twig
Pt. Bluff Leaf
Pt. Bluff Root
Pt. Bluff Trunk
Pt. Bluff Bark
Pt. Bluff Sap
Pt. Bluff Resin
Pt. Bluff Gum
Pt. Bluff Pitch
Pt. Bluff Tar
Pt. Bluff Oil
Pt. Bluff Grease
Pt. Bluff Wax
Pt. Bluff Honey
Pt. Bluff Nectar
Pt. Bluff Pollen
Pt. Bluff Seed
Pt. Bluff Fruit
Pt. Bluff Berry
Pt. Bluff Nut
Pt. Bluff Acorn
Pt. Bluff Cone
Pt. Bluff Flower
Pt. Bluff Petal
Pt. Bluff Sepal
Pt. Bluff Stamen
Pt. Bluff Pistil
Pt. Bluff Ovary
Pt. Bluff Style
Pt. Bluff Stigma
Pt. Bluff Anther
Pt. Bluff Filament
Pt. Bluff Receptacle
Pt. Bluff Calyx
Pt. Bluff Corolla
Pt. Bluff Perianth
Pt. Bluff Bract
Pt. Bluff Bud
Pt. Bluff Shoot
Pt. Bluff Stem
Pt. Bluff Node
Pt. Bluff Internode
Pt. Bluff Axil
Pt. Bluff Apex
Pt. Bluff Base
Pt. Bluff Margin
Pt. Bluff Surface
Pt. Bluff Vein
Pt. Bluff Midrib
Pt. Bluff Lamina
Pt. Bluff Petiole
Pt. Bluff Stipule
Pt. Bluff Tendril
Pt. Bluff Thorn
Pt. Bluff Prickle
Pt. Bluff Spine
Pt. Bluff Hair
Pt. Bluff Down
Pt. Bluff Fuzz
Pt. Bluff Nap
Pt. Bluff Pile
Pt. Bluff Velvet
Pt. Bluff Plush
Pt. Bluff Fur
Pt. Bluff Skin
Pt. Bluff Hide
Pt. Bluff Leather
Pt. Bluff Parchment
Pt. Bluff Vellum
Pt. Bluff Paper
Pt. Bluff Ink
Pt. Bluff Pen
Pt. Bluff Quill
Pt. Bluff Feather
Pt. Bluff Wing
Pt. Bluff Tail
Pt. Bluff Beak
Pt. Bluff Claw
Pt. Bluff Talon
Pt. Bluff Foot
Pt. Bluff Leg
Pt. Bluff Thigh
Pt. Bluff Knee
Pt. Bluff Shin
Pt. Bluff Calf
Pt. Bluff Ankle
Pt. Bluff Heel
Pt. Bluff Toe
Pt. Bluff Nail
Pt. Bluff Hoof
Pt. Bluff Horn
Pt. Bluff Antler
Pt. Bluff Tusk
Pt. Bluff Ivory
Pt. Bluff Bone
Pt. Bluff Marrow
Pt. Bluff Blood
Pt. Bluff Flesh
Pt. Bluff Meat
Pt. Bluff Fat
Pt. Bluff Lard
Pt. Bluff Suet
Pt. Bluff Tallow
Pt. Bluff Grease
Pt. Bluff Oil

immediate action. A little caution was urged by the Colonial Department, however. At least until it could seek a legal opinion. British authorities had been, after all, away for a long time. Lord Aberdeen added antecedent information when he sought a legal opinion on July 9th, 1829.

> *"... the Government of Buenos Ayres has recently claimed them as an appendage to their territory, on the ground of right derived to them from the Crown of Spain; and Lord Aberdeen directs me to request that you will be pleased to take these the circumstances into consideration, and report to His Lordship your opinion how far the interval of non-occupation by any British force from the year 1774 to the present time or any portion of the previous transactions already referred to, can be held to invalidate the former claim of this country to the islands in question."*[152]
>
> *"These islands are not mentioned in any subsequent treaty with Spain; and no trace has been found of any such correspondence as you suppose may have taken place whereby Gt. Britain agreed to a permanent cession of them... Great Britain, being then in possession, declared on withdrawing her troops from the Islands in 1774 that they were "the sole right & property of Great Britain." Whatever right we possessed then, we appear to have still."* [153]
>
> *"... (The Right) ... to these Islands has always been maintained in our discussions with the Spanish Govt., as well on the ground of prior discovery, as of prior settlement, and it is clear that Spain has acquired no additional Right to them since the period since her supposed claims were successfully resisted by Great Britain."* [154]

Prime Minister Arthur Wellesley, the 1st Duke of Wellington, added his own thoughts on July 25th.

> *"It is not clear to me that we have ever possessed the sovereignty of* ***all*** *these islands. The convention certainly goes no farther than to restore to us Port Egmont, which we abandoned nearly sixty years ago. If our right to the Falkland Islands had been undisputed at that time and indisputable, I confess that I should doubt the expediency of now taking possession of them. We have possession of nearly every valuable post and colony in the world and I confess that I am anxious to avoid to excite the attention and jealousy of other powers by extending our possessions and setting the example of the gratification of a desire to seize upon new territories. But in this case in which our right to possess more than Port [Egmont] is disputed, and at least doubtful, it is very desirable to avoid such acts.*
>
> *I am at the same time very sensible of the inconvenience which may be felt by this country and of the injury which will be done to us if either the French or Americans should settle upon these islands, the former in virtue of any claim from former occupancy, the latter or both from any claim derived by purchase or cession from the government of Buenos Ayres.*

152 *FO 83/2227/95*
153 *John Backhouse to Hay 5 June 1829 CO 78/1/3*
154 *Colonial Office Papers 10 July 1829, PRO CO 78/2*

That which I would recommend is that the government of Buenos [Ayres] should be very quietly but very distinctly informed that His Majesty has claims upon Falklands Islands and that His Majesty will not allow of any settlement upon, or any cession to, individuals or foreign nations of these islands by Buenos Ayres, which shall be inconsistent with the King's acknowledged right of sovereignty." [155]

Intriguingly, Wellington saw any danger as coming from France. Or the USA. Not Buenos Aires or Spain. France? England was ever concerned that its neighbour would find a way into South America through Spain. Why the US? Perhaps driven by a perception that Washington's influence was growing in that region. Or the fishing? Three days after Wellington wrote his letter, Sir Herbert Jenner's legal opinion arrived.

"I am humbly of opinion that the right which this country acquired by the original discovery and subsequent occupation of the Falkland Islands cannot be considered as in any manner affected by the transactions, which occurred previously to the year 1774. So far from those rights having been abandoned they have always been strenuously asserted and maintained, particularly in the memorable discussions with Spain referred to in your Lordship's letter, which terminated in the restoration of the English Settlement and Fort which had been taken by the Spanish Forces.

The claim, therefore, to these Islands, now advanced by Buenos Aires, cannot be admitted upon any supposed acknowledgement or recognition of the right of Spain by this Country; if it is capable of being maintained on any ground, it must be upon the supposition, that the withdrawing of the British Troops in 1774, and the non-occupation of these islands since that time, amounted to a virtual abandonment of the right originally acquired, and that, being unoccupied, the Islands in question reverted to their original state, and liable to become the property of the person who might take possession of them. But I apprehend that no such effect is to be attributed to either or both of these circumstances.

The symbols of property and possession which were left upon the Islands sufficiently denote the Intention of the British Government to retain these rights which they had previously acquired over them, and to reassume the occupation of them when a convenient opportunity should occur."[156]

A little ambiguous as the words on Clayton's plate left in 1774 appeared to be a claim for one island only. Falklands Island. Gran Malouine. An interpretation that can be seen in the first sentence of Wellington's opinion. Jenner's assessment, however, only used the plural. Apparently, Jenner perceived the whole archipelago as one single unit, Falklands Isle. The name so often found on 18th-century charts. Wellington's understanding is the more logical. Britain in the west, Spain in the east. An uncomfortable compromise in 1771 had become the status quo and Buenos Aires was not perceived as any sort of successor. No

155 *Correspondence and Memoranda of Field Marshall Arthur Duke of Wellington, K.G.* A. R. Wellesley (ed) 1877 vol.6 p.41. Emphasis added as this word is missing from some Spanish translations.
156 *Jenner to Aberdeen July 28, 1829 no.40 FO 83/2227* at *102-105*

right to interfere. Britain was certainly not about to be upstaged. Not by an upstart new nation.

So, a decision was made and orders went out. To the Admiralty for a ship to visit Port Egmont and renew the symbols of British possession. To *charge d'affairs* Parish on August 8th, 1829, to issue a formal protest.

> *"... in order to preserve entire the rights of His Majesty, and to prevent all injury from the proceedings of the Government of Buenos Ayres, you will inform that Govt of the existence of His Majesty's pretensions in their full force. You may also give it to be understood that His Majesty will not view with indifference, nor can he recognise any cession of territory by the Govt. of Buenos Ayres, either to individuals or to any foreign nation, which shall be found incompatible with the just rights of Sovereignty to which His Majesty lays claim, and which have heretofore been exercised by the crown of Great Britain."* [157]

Oblivious to the furore he had created in London, and feeling confident, Luis Vernet arrived back at Berkeley Sound on July 14th, 1829. His intent was first to impose his new-found authority with a public display.

On August 30th, 1829, Puerto Soledad was renamed Puerto Luis. Vernet was no Saint (St).

> *"The military and political Commander named by the Superior Buenos Aires Government, according to decree of June 10th which I have just made public for you, has chosen the anniversary of Saint Rosa of Lima, patron saint of America, to exercise a formal act of dominium which the Republic of Buenos Aires has over these Falkland Islands, Tierra del Fuego its surroundings and other territories from the end of the Commandancy of Patagones up to the cape of Horn; to this effect it has flown on this day the flag of the Republic as a salutation in the best possible way which is allowed by the emerging state of our population... The Commander expects that each of the inhabitants will offer their subordination to the laws, living like brothers in union and harmony so that with the expected population increase which the Superior Government has promised to support and protect in this way will be the beginning of a Southern population which will honour the Republic whose dominium we recognise."* [158]

Vernet wasted no time in planning and printing sealing regulations. Handed to the few sealers he could contact. An American sealer, *Harriet* was one. Penalties included seizure of an offending ship. Severe, but then Vernet was still in need of a fishery protection vessel.

> *"All masters of vessels engaged in the fisheries on any part of the coasts under (this) jurisdiction, will ... desist, since a reincidence will expose them to becoming a lawful Prize to any vessel of war belonging to the Republic of Buenos Aires, or to any vessel, which the undersigned may think proper to arm in use of his authority, for executing the laws of the Republic. The undersigned*

157 *Aberdeen to Parish No.5 August 8, 1829* in *PRO FO 6 499*
158 *Archivo General de la Nación, Fondo Luis Vernet Sala VII 2-4-6*

further warns against the practice of shooting cattle on the East Falkland Island, the same being private property, and however innocent the act may be in those that are not aware of the circumstances, it becomes of course highly criminal in those who wilfully persist in such acts, and renders them liable to the rigour of the laws in similar cases." [159]

Betsy, the charter ship used by Vernet to get back, had another task after depositing its passengers in Berkeley Sound. An Englishman, Matthew Brisbane, needed to rescue his crew marooned on South Georgia following the wreck of *Hope*, in April 1828. Brisbane, with a few of his men, had taken to an open cutter to seek help across a thousand miles of the cold South Atlantic. A sealer of some reputation, he had worked with Weddell after 1822; undoubtedly hearing of Jewett's claims of 1820 (Weddell published in 1825). He would also have seen Berkeley Sound before arriving there with Vernet in 1829. Against the odds, Brisbane saved most of his men before returning on October 19th, 1829, to become Vernet's enforcer.

Meanwhile, back in Buenos Aires, Lavalle was gone and General Rosas was in charge. Not an easy man, although Parish seems to have formed a closer relationship than most; assisting Rosas to form a fresh government. This relationship may have helped when Parish's first formal approach to that new administration was to present a protest. A first warning. Submitted on November 19th, 1829.

"The undersigned H.B.M. Charge d'Affaire has the honour to inform H.E. General Guido the Minister encharged with the Department of Foreign Affairs that he has communicated to his Court the official document signed by General Rodriguez and Don Salvador Maria del Carril, in the name of the Government of Buenos Ayres, and published on the 10th of June last, containing certain Provisions for the Government of the Falkland Islands. The undersigned has received the orders of his Court to represent to H.E. General Guido that in issuing this decree, an authority has been assumed incompatible with His Britannic Majesty's rights of sovereignty over the Falkland Islands.

These rights, founded upon the original discovery and subsequent occupation of the said islands, acquired an additional sanction from the restoration, by His Catholic Majesty, of the British settlement, in the year 1771, which, in the preceding year, had been attacked and occupied by a Spanish force, and which act of violence had led to much angry discussion between the Governments of the two countries. The withdrawal of His Majesty's forces from these islands, in the year 1774, cannot be considered as invalidating His Majesty's just rights. That measure took place in pursuance of a system of retrenchment, adopted at that time by His Britannic Majesty's Government.

But the marks and signals of possession and property were left upon the islands. When the Governor took his departure, the British flag remained flying, and all those formalities were observed which indicated the rights of ownership, as well as an intention to resume the occupation

159 *Vernet, circular, August 10, 1829 AGN VII 2-4-1*

of that territory, at a more convenient season.

The undersigned, therefore, in execution of the Instructions of his Court, formally protests, in the name of His Britannic Majesty, against the pretensions set up on the part of the Argentine Republick, in the decree of 10th June, above referred to, and against all acts which have been, or may hereafter be done, to the prejudice of the just rights of sovereignty which have heretofore been exercised by the Crown of Great Britain."

This warning against trespass received a short acknowledgement by the new Foreign Minister, Tomas Guido, on the 25th. Nothing more.

"The undersigned Minister for Foreign Affairs has received and laid before His Excellency the Governor the communication which HM Gov Charge de Affaires Mr Woodbine Parish has been pleased to address to him under date of the 19th November, protesting against the Decree issued on the 10th of June last, appointing a Political and Military Commandant for the Falkland Islands. The Government will give their particular consideration to this said note from Mr Parish, and the undersigned will have the satisfaction of communicating to him their resolution upon it, as soon as he receives orders to do so." [160]

General Guido never received orders to communicate any resolution. So the protest lay unanswered. Rosas, Governor and Captain-General from December 6th, 1829, was far too involved in consolidating his position to have any regard for distant islands. Unaware of the change, Luis Vernet wrote on December 26th, to inform the provincial government of all he had achieved. Reminding them he still needed a gunboat. But Martín Rodríguez was gone and the reply spoke only of "*difficult circumstances*."

"A letter has been received from the agent to the North and South American Coffee-house, dated Buenos Ayres, Dec 12, 1829 the substance of which is as follows:- After stating that the old legislature of that province was reinstated on the 1st of December, it mentions the appointment of Don Juan Manuel Rosas as Governor, Don Tomas Guido as minister for foreign affairs, Don Manuel Garcia for the financial department, and Don Juan Romoso Balcarce for the war and marine." [161]

160 *FO 6/499* and *FO 78/1/53*. Juan José Viamonte was Governor, having taken the temporary position until elections could be arranged. Arranged, that was, to elect Rosas.

161 *Globe – Friday February 26, 1830*

8

Lexington Raid

"... I determined to break up and disperse this band of pirates,.." [162]

On Soledad, Vernet's fortunes continued to meet with mixed results. A project to send 18 settlers to Statenland to set up a sawmill to supply timber failed. Literally running into the rocks on the coast of Tierra del Fuego. Crew and settlers from *Belleville* got back two months after setting out. Without any timber to build houses. One happy event, however, was the birth of a daughter, Matilde, to Luis Vernet and his wife on February 5th, 1830. The sixth child known to have been born in the Falklands after 1764.[163] Not the first, as some claim. Not even to Vernet's settlers, and of no relevance to sovereignty. The task of informing sealers of the new regulations was not going well either. They were avoiding Berkeley Sound. So Brisbane went to Buenos Aires with a circular for publication. Duly reported in the British Packet & Argentine News of October 16th, 1830.

> *"Port Luis (Falkland Islands) To Captain...- Sir: The undersigned, governor of the Falkland islands, Tierra del Fuego and adjacencies, doth hereby, in compliance with his duty expressed in a decree passed by the Government of Buenos Aires on the 10th, June 1829, to watch over the execution of the laws respecting the Fisheries, which decree is annexed as a translation, inform you: that the transgression of those laws will not, as heretofore, remain unnoticed.*
>
> *The undersigned flatters himself that this timely notice which he gives to all Masters of vessels in the Fisheries on any part of the coasts under his jurisdiction, will induce them to desist, since a repetition will expose them to become a lawful prize to any vessel of war belonging to the Republic, or to any vessel which the undersigned may think proper to arm in use of his authority for executing the laws of the Republic.*
>
> *The undersigned further warns persons against the practice of shooting cattle on the East Falkland Island, the same being private property, and however innocent the act may be in those that are not aware of this circumstance, it becomes, of course, highly criminal in those who wilfully persist in such acts, and renders them liable to the rigor of the laws in similar cases. On the other hand those who are in want of provisions or refreshments, can receive them on moderate terms, by applying at the new colony at the head of Berkley Sound, where no port charges are to be paid, desertion of men discouraged, and any assistance rendered to those that may stand in need of it, by the undersigned... Luis Vernet"* [164]

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162 *Duncan to Levi Woodbury February 3, 1832*

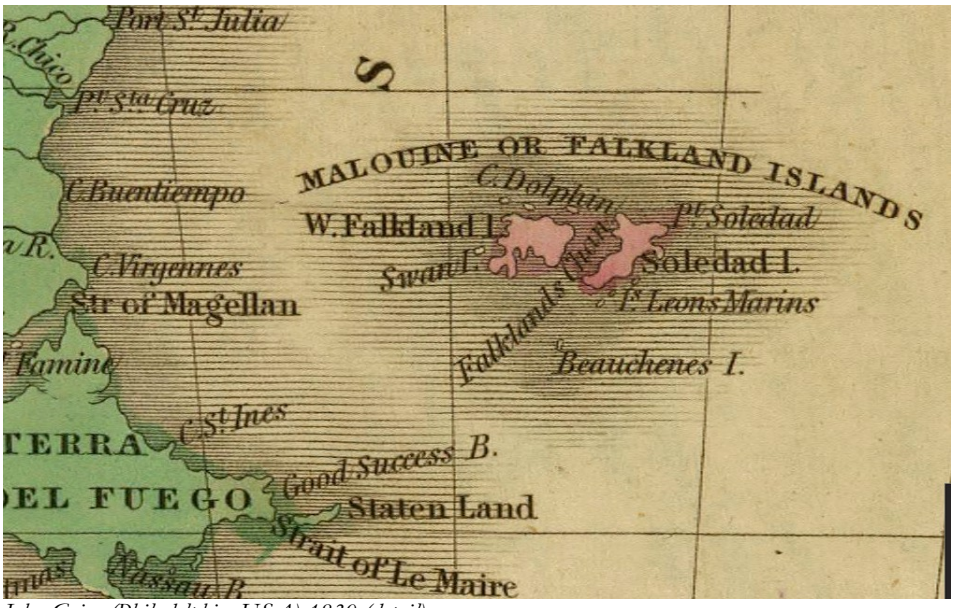
163 A son, Jean José Simon, had been born to head gaucho, Jean (Juan) Simon in April, 1829. The fifth known child to be born in the archipelago after 1764. The child's mother was Carmelita, one of Vernet's indentured slaves.

164 Quoted in *De Quesada a Bayard, 4 de Mayo de 1887* in *Memoria de Relaciones Exteriores presentada al Honorable Congreso Nacional en 1887, Buenos Aires, 1887, pp. 201-278*

Brisbane found himself summoned to the British Legation.

> *"I thought it right ... to acquaint him with the protest I had been instructed to enter here against the decree of the Buenos Ayres Government of June 1829, and I desired him as he was about to return immediately to the Falklands to communicate the tenor of it to Mr. Vernet as a warning against his interfering with any H.M.'s subjects frequenting those coasts:- Mr Brisbane promised me he would take care that my caution should be attended to (and) that the truth was the notice was more intended to draw vessels to Soledad for supplies, than to hinder their coming there, which in fact they had no means whatever at their disposal to prevent."* [165]

The interview satisfied Woodbine Parish that English ships could fish undisturbed. Also that Vernet had confined himself to the old Spanish garrison site. He wrote to inform Foreign Secretary, Henry John Temple, Viscount Palmerston of these conclusions. As for the November protest. There was nothing to report.



John Grigg (Philadelphia, USA) 1830 (detail)

Despite publication in the broadsheets, Vernet's circular had no noticeable effect. Sealers continued to hunt both seals and kill wild cattle with impunity. One American ship, *Harriet*, returned to Berkeley Sound on November 24th, 1830 (Capt. Davison). A copy of the sealing regulation was given to its captain. A second American sealer, *Superior* (Capt. Congar) sailed into the Sound in early January 1831. Congar and was also handed a notice. Both ships sailed on and continued their hunting. Ignoring the warnings. A third American sealer, *Breakwater* (Capt. Carew), moored off Puerto Luis on May 7th, 1831, to effect repairs. It was also served with a copy of Vernet's regulations. Carew was no more inclined to pay

165 *FO 78/1/111 Woodbine Parish to Earl of Aberdeen November 20, 1830*

heed than the others. Vernet's authority was not recognised, no more than that of Buenos Aires. English sealers were there also. *Rose* arrived in Berkeley Sound on April 13th, joined by *Adeona* (William Low) on May 25th. There is no suggestion that the British captains were given copies of Vernet's sealing regulations.

Harriet, with a hold full of sealskins and oil barrels, returned to Berkeley Sound on July 15th, 1831. Capt. Davison was arrested at gunpoint and marched to Puerto Louis by Matthew Brisbane. The ship's cargo seized and impounded at the settlement's store. On searching *Harriet*, Brisbane found evidence of sealing activity by *Breakwater*. That led to Carew's arrest on August 17th. Most of *Breakwater*'s crew were isolated on a small island without a boat. Imprisoned on a rock. But the ship required a few hands to stay at anchor, so three remained on board under guard. On the 19th, *Superior* returned to Puerto Louis. Congar meeting the same fate as his countrymen. Three American ships captured; their crews imprisoned; skins, oil and ships impounded.

During the night of August 20th, with Brisbane's men stretched thin, the three crew members on *Breakwater* overcame their guards. They were then able to rescue their fellows from the island before sailing away. Carew, however, was detained at Puerto Luis and had to be abandoned. Belatedly realising the dangers of confining belligerent sealers within the settlement, on September 8th, 1831, Vernet offered them a deal. A business arrangement as an alternative to imprisonment. Two ships. One, *Superior*, could work, albeit on Vernet's behalf. The other, *Harriet*, would take one captain to represent both ships at a hearing in Buenos Aires. That court to decide on the legality of the seizures and determine the fate of both vessels. Vernet chose Davison to face trial in Buenos Aires; Congar to go sealing on *Superior*. Feeling that they had little choice, the two American captains agreed; signing contracts placed in front of them. Other sealing parties discovered on the islands were also captured and similarly coerced into working. There being no obvious benefit in keeping Carew, he was set free. *Breakwater*, after fleeing, first sailed to Statenland in a quest to rescue a sealing crew left there some months before. After finding them, the ship turned for home. It arrived at Stonington, USA, on October 24th, 1831. Complaints of Vernet's seizures were then lodged with the US Government.

> *"The schooner 'Breakwater' has arrived from the Falkland Islands, where it hunted seals. The 'Breakwater' entered Puerto Luis, where Vernet, the Governor, took possession of the vessel by force, saying that he did so in accordance with a decree of the Government of Buenos Ayres prohibiting fishing in those waters. … In Puerto Luis all their documents were seized. The schooner 'Harriet' was arrested in similar circumstances. There are still 8 or 10 schooners and several boats for which we fear. Regarding the alleged jurisdiction of the Falkland Islands, maintained by the Government of Buenos Ayres, our Government has previously declared not to recognize it."* [166]

166 *Boston Columbian Centinel*

"Our right of fishery, .., in those seas, is one that the government considers indisputable, and it will be given in charge to the minister about to be sent there, to make representations against and demand satisfaction for all interruptions of the exercise of that right." [167]

While the news was fuelling outrage in Washington, USS *Lexington* was leaving Rio de Janeiro. Commander Silas Duncan had general orders to protect American shipping. He was also aware of the importance of the Falklands to his nation's whalers and sealers. Before leaving, he had met an experienced officer of the Brazillian Navy. David Jewett.[168] While the South Atlantic was a big sea; it would seem to have been a small world.

Vernet also had a voyage planned, intent upon taking *Harriet* back to Buenos Aires. He hoped a tribunal would award him prize money or, ideally the vessel itself. Before his departure, however, there was some unfinished business. Gaucho foreman Jean (Juan) Simon had been a loyal employee but rarely paid. Owed for years of service, Vernet gave him a bond instead for the *"... sum of One thousand, Six hundred pesos he can recover from me or my heirs or assigns at any time."* [169] As Vernet's business was 14,390 pesos in debt this amounted to a fraudulent cheque. A deceit made easier as Simon was illiterate. Vernet's cash-flow problems were offset a little with the arrival of William Langdon though. He returned to Soledad aboard *Thomas Laurie* on October 21st, 1831. Enthused by the settlement's possibilities, Langdon was persuaded to buy ten square miles of countryside. Most likely in cash as the transaction was not recorded in any accounts.

"Don Vernet has divided the island into eleven sections: one he has colonized, and another he has sold to Lieutenant Langdon, to whom he has given a deed of grant, authorizing him to let other portions of the land to persons willing to emigrate to the country. This tract consists of about ten square miles, of six hundred and forty English acres each, as his property for ever, with a proviso that he, or some person appointed by him, shall settle on it within a given time. He has also empowered Lieutenant Langdon to distribute, gratis, among ten families willing to emigrate, certain portions of the land. The above deed sets forth the condition under which emigrants will be received, and also Don Vemet's ideas on the subject of colonization." [170]

Vernet sailed for Buenos Aires on November 7th, 1831. With him were his wife and family, 4 female household slaves; Gilbert Davison and members of the ship's original crew. Four settlers were along to act as security. Emilio Vernet had already left so Henry Metcalf remained in charge of the settlement. Matthew Brisbane was to enforce the fishing regulations. He also carried authority to act as Vernet's agent. *Harriet* arrived at Buenos Aires on November 20th, 1831.

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167 *US Secretary of State Livingston to Lewis Krumbhaar October 29, 1831* quoted in *Davison v Seal-Skins*, *Circuit Court D, Connecticut 1835 case No. 3661*

168 *Baylies to Livingston January 1, 1833* in *Diplomatic Correspondence of the United States Concerning the Independence of the Latin-American Nations* W. R. Manning 1925

169 *CO 78/43*

170 *Colonial Office Memo* dated February 25, 1832 referred to in *Memorandum Respecting the Falkland Islands* G. de Bernhardt 1911

Once at anchor, Davison took an opportunity to jump ship; making his way to the home of the US Consul. George Slacum was the senior US representative in Buenos Aires despite diplomacy not being his forte. On every previous occasion that Vernet returned to Buenos Aires, it was to discover political upheaval. This time was no exception. Still disunited as a nation, on January 4th, 1831, Buenos Aires had joined with Entre Rios and Santa Fe to form the Argentine Confederation. In August, the provinces of Mendoza, Córdoba and La Rioja followed. Ponsonby's replacement had also finally arrived. British Minister Stephen Henry Fox, accompanied by a new *charge d'affaires*, Philip Gore. After seven years, Parish could finally go home.

In England, Capt. Robert Fitzroy, commanding *Beagle*, received orders to survey the Falklands. His onboard naturalist was also a friend, Charles Darwin.

On November 21st, 1831, the new government of the Argentine Confederation found itself in receipt of two letters. The first was from a businesslike Governor Luis Vernet. The second from an irate US Consul. Vernet's letter detailed the seizure of the US sealers and presented papers for submission to a tribunal. George Slacum's letter protested.

> *"The undersigned is at a loss to conceive under what possible ground a bona fide American vessel, while engaged in lawful trade, should be captured by an officer of a friendly Government, and with which the United States was happily on terms of the most perfect good understanding and amity. And he cannot bring himself to believe that the Government of Buenos Ayres will sanction an act which, under its present aspect, must be viewed as one calculated materially to disturb them."* [171]

> *"And I the said Consul at the instance and request of said Gilbert R. Davison... do Solemnly Protest against the said Lewis Vernet and all person or persons acting by or under his Authority. And also against the government of Buenos Ayres for all losses Detriments Costs, Demurrages, Damage Expences (sic) that have already occurred or may hereafter occur in consequence thereof..."* [172]

Consul Slacum's outrage was not assuaged by seeing his complaint brushed aside by Minister Tomás Manuel de Anchorena. A matter for the courts. Undeterred, Slacum complained about the Foreign Minister's answer. Denying that Buenos Aires had any rights over the fisheries, Slacum presented a formal protest. Way above his pay grade. Faced, as he was, with a diplomatic brick wall, the US Consul must have been delighted to hear of *Lexington*'s arrival in the river on November 29th, 1831. It may be that there is a mould somewhere that produces difficult men at awkward times. If Slacum was undiplomatic, Commander Silas Duncan was downright gung ho.

171 *British and Foreign State Papers 1832-1833 London 1836 p.313*

172 *Diplomatic Correspondence of the United State, Inter-American Affairs: vol.1 Argentina 1831-1860* W. R. Manning 1932

After obtaining details of Vernet's seizures from Slacum, and embarking the fugitive Davison, *Lexington* sailed on December 9th. Vernet watched her go.

USS *Lexington* sailed into Berkeley Sound on December 26th, 1831. The warship displayed, as was the custom, the flag of the nation that the port was deemed to belong to – France. Either that or Duncan had a sense of humour not otherwise reported. Bad weather prevented the warship from making Puerto Luis until the 31st. Reports of what followed differ only as to the extent of the destruction. What is certain, was that Metcalf and Brisbane went aboard Lexington in chains.

> *"Upon my arrival in Berkeley Sound East Falkland, I investigated the matters in question and finding them to be of the most iniquitous and illegal character, I determined to break up and disperse this band of pirates, many of whom had been sent from the prisons of Buenos Ayres and Monte Video, and were thus let lose to prey upon a peaceable and industrious part of our community under the direction of Louis Vernet and Matthew Brisbane..."* [173]

> *"... I was myself treated as a pirate - rowed stern foremost on board the Lexington - abused on her quarter-deck most violently by Captain Duncan - treated by him more like a wild beast than a human being - and from that time guarded as a felon,..."* [174]

It would not be an exaggeration to say that Vernet's four guns were spiked; the powder ruined; storerooms opened, and sealskins removed. Vernet's indentured slaves were treated as property without choice. Of the settlers, some were enthusiastic to leave, while others needed persuasion. A few elected to stay. Others, including three black slaves, had run off into the countryside (Camp) when the American ship appeared. They would not return until after *Lexington* sailed, which it did on January 22nd, 1832.

Some 28 people watched Duncan sail away; the remains of a colony which, at its peak, had numbered over one hundred. Of the 28, a majority were gauchos; two were female slaves, and one was a boy.

Second Warning

From Buenos Aires, on the last day of 1831, Minister Fox reported to London.

> *"Mr. Slacum is fully aware of the state of His Majesty's claims to the sovereignty of the Falkland Islands. … I shall therefore endeavour to urge upon Buenos Ayres the expediency of restoring things, practically as far as may be possible, to the footing upon which they stood previously to the Decree of June, 1829; conceiving as I do that it will be more agreeable and convenient to His Majesty's Government, not to be called upon at present, either effectively to maintain His Majesty's rights of sovereignty over the Falkland Islands or formally to relinquish them."* [175]

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173 *Duncan to Levi Woodbury February 3, 1832*
174 *Brisbane to Fitzroy January 1833*
175 *Fox to Palmerston December 31, 1831* in *FO/78/1/140*

US annoyance at the seizure of American sealers was only abated by its confusion about the legal position. Secretary of State Livingston was aware of the events of 1770 and of the 1771 Convention but knew too little about how the situation stood in 1831. He needed more information. So, on January 11th, 1832, the US Secretary instructed his Ambassador in Madrid to make enquiries about Spain's perspective. [176]

> *"Some difficulties having arisen between us and the Government of Buenos Aires, it becomes important to know precisely the extent of that Government, when under the dominion of Spain, particularly whether it comprehended Patagonia, Terra del Fuego, and the adjacent islands, including the Falkland Islands. It is supposed that when Spain agreed to restore the establishment at Port Egmont, on the West Falkland, to the English, in the year 1770, there was a secret convention, or some understanding that it should be relinquished again to Spain. You are requested to get all the information that you can on this subject, and transmit it, with copies of all the documents you can procure concerning it, to this Department."* [177]

When news of the attacks on the American vessels arrived in Washington, Livingston was in the middle of selecting a *charge d'affairs* to go to Buenos Aires. Both to represent US interests and to try, once again, to negotiate a treaty. Unable to wait for intelligence from Madrid, Livingston appointed Francis Baylies on January 26th, 1832. Described as lawyer, politician, author and 'henchman' of the US President; Baylies came from the same mould as Slacum and Duncan. His instructions were to defend US interests, including fishing rights. At the same time, he was to ascertain the authority claimed by Buenos Aires.

Lexington returned to Montevideo on February 2nd, 1832 with seven men in chains, including Matthew Brisbane. Woodbine Parish, awaiting a ship home, saw the warship arrive. He asked Capt. Graham of HMS Rattlesnake, to make enquires with the Americans.

> *"He found nearly all the colonists on board; eight (sic) of them as prisoners, the rest of their own accord having requested to be conveyed to Monte Video upon the capture of their companions. The prisoners are the parties who were most active in the detention of the North American Vessels by Mr Vernet's orders; the principal person is Brisbane the Englishman … and the Commander tells Graham that he intends to send them to the United States for trial as pirates; this charge I apprehend, cannot be maintained, acting as they appear to have done under an authority from the Government of Buenos Ayres. I have taken upon myself to write a letter in favor of Mr Brisbane to Mr Slacum the North American Consul..."* [178]

176 *Public Documents printed by order of The Senate of the United States: First Session of the Twenty-Fourth Congress, begun and held at the City of Washington Dec 7, 1835. Livingston to Van Ness No.29 January 11, 1832*

177 *Ibid*

178 *Parish to Palmerston February 3, 1832 PRO FO 6/499* also *CO 78/1/163*

Britain's Consul at Montevideo, Thomas Samuel Hood, also wrote on Brisbane's behalf; exhorting Duncan to consider that the Scotsman had been acting under the orders of an established authority. That any question of right was separate from Brisbane's conduct. Duncan remained unmoved. All but the seven were set ashore at Montevideo. Vernet's indentured slaves handed over to the Montevidean authorities. To be held until collected. Like cattle.

In Buenos Aires, Governor Rosas would seem to have taken little interest in the affair. Some controversies were better left to others. In this case to Ministers Juan Ramon Balcarce and Manuel J. Garcia. On February 14th, 1832, the Buenos Airean government published its reaction.

The Delegate Government of the Province to the People

"The official details collected by the Government, have confirmed the truth of the scandalous acts, stated to have been committed in the Malvinas. The Commander of the United States' ship Lexington, has invaded, in a time of the most profound peace, that, our infant Colony; destroyed with rancorous fury the public property, and carried off the effects legally deposited there at the disposal of our Magistrates. The Colonists being unexpectedly assaulted under a Friendly Flag, some of them fled to the interior of the island; and others violently torn from their homes, or deluded by deceitful artifices, have been brought away and cast clandestinely upon the shores of the Oriental State which now extends to them a generous hospitality; while others, natives and fellow Countrymen of ours, are conducted as Prisoners to the United States, for the ostensible purpose of being tried there.

The unanimous burst of indignation which this outrage has produced in you, is fully justified; and the same feeling will doubtless be evinced by men of honor in every part of the World, when they hear of this transaction. But, Citizens, it is as impossible that the Government of Washington should approve of such aggressions, as that your Government should tolerate them in silence. The former, acting up to the principles of moderation and justice which characterize it, will doubtless give satisfaction correspondent to the dignity of the two Republics.

In the mean time, be assured that, whatever may be the issue of these unpleasant occurrences, your Government will maintain the inviolability of the Persons and Property of North American Citizens, with the same firmness as it will support its own rights, and in no case will stain itself with an ignoble reprisal of innocent men, who are under the safeguard of the national honor."

It may be that Commander Duncan read the publication, as he sailed for Rio de Janeiro the following day. With his prisoners. Arriving at that port, Duncan received news of the death of his father and asked to be relieved. Not before requesting a court of inquiry to examine his action at Puerto Luis. "*Unnecessary*" was the response. Duncan had presidential approval.

> *"Under the circumstances detailed in your letter, the President of the United States approves the course which you pursued, and is much gratified at the promptness, firmness and the efficiency of your measures."*

At Rio de Janeiro, US Commodore George Rodgers took charge of Brisbane and the other prisoners. He decided to return them to Buenos Aires. To confirm whether they had acted under the authority of the Confederation. Watching this activity was Britain's naval commander at Rio, Rear-Admiral Baker. In London, Foreign Secretary Palmerston was unaware of the *Lexington* raid. His last information from Fox was dated December 31st, 1830.[179] That letter had referred only to the seizure of American sealers. Palmerston's responding instruction to Fox was unequivocal.

> *"... that Government has made a grant of these Islands to Mr. Lewis Vernet, thereby assuming the exercise of a Right which does not belong to it, and infringing upon, and violating the just Right of His Majesty. … you are now instructed, with reference to that (1829) Protest, to demand from the Government of Buenos Ayres, the formal and immediate Revocation of any Authority or Commission which it may have granted to Mr. L. Vernet, or to any other persons, to exercise any Powers of Government in the Falkland Islands."* [180]

Commodore Rodgers aboard USS *Warren* arrived in the Rio de la Plata on April 15th. Anchored off Buenos Aires, he offered to release the prisoners on an assurance from the Confederation that they had acted under its authority. That was immediately given, and the men freed. Buenos Aireans then received the news that a US envoy was en-route. Hopes of reconciliation and a return to good relations were high. As were expectations of compensation.

Not in any great hurry, May 4th, 1832, found US *charge d'affaires* Baylies in Rio.

> *"My course is a plain one and Capt. Duncan has saved me, as I apprehend, some trouble. Without departing from the most rigid rule of national courtesy I shall not abandon one title of our maritime right. I understand from Mr. Aston, the British Charge here that the claim of Great Britain to the Falkland Islands has never been abandoned, and that it has been formally asserted recently."* [181]

Francis Baylies finally stepped ashore at Buenos Aires on June 9th, 1832, to the sound of a 15 gun salute from USS *Warren*. On the 13th, Minister Manuel Vicente de Maza accepted Baylies's credentials. His accreditation announced in the Gazette on the 15th. That was the high point.

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179 *Fox to Palmerston December 31, 1830* in *FO/78/1/140*
180 *CO 78/1/193*
181 Quoted in Manning 1932

On the 20th, Baylies wrote to the Confederation's Foreign Ministry. US accusations were that Luis Vernet had interfered in the pursuit of legitimate commerce; unlawful arrest and the illegal detention of American ships. The illegal seizure and sale of private property without due process and forcing American citizens into slavery under an imposed contract. Also the abandonment of seamen on a desolate island.

> *"... the Undersigned is instructed and authorized to say, that they (the USA) utterly deny the existence of any right in this Republic to interrupt, molest, detain or capture, any Vessels belonging to Citizens of the United States of America, or any Persons being Citizens of those States, engaged in taking Seals, or Whales, or any species of fish or marine animals, in any of the waters, or on any of the shores or lands, of any, or either, of the Falkland Islands, Tierra del Fuego, Cape Horn, or any of the adjacent Islands in the Atlantic Ocean."* [182]

Taken aback, on June 26th, 1832, de Maza informed Baylies that Governor Luis Vernet had been instructed to prepare a full report. To detail everything that had occurred. Baylies did not care. He had no interest in excuses or explanations, making it plain that he considered Vernet a pirate. At least until Buenos Aires could prove a legal right under which its governor had acted. Washington's perspective went public when a local journal, *La Gazeta Mercantil,* repeated an article from an American newspaper. According to the item, the US had fishing rights around the archipelago founded upon Britain's occupation and possession. A shared sovereignty with Spain. The local editorial was indignant. Raging that such reasoning was '*unthinkable, insolent and absurd*'.

Baylies wrote again to de Maza on July 10th, enclosing a copy of Britain's 1829 protest.

> *"... if it be hypothetically admitted that the full and entire right of sovereignty was possessed by Spain – has Spain renounced it? Has Spain ever, by any acknowledgment whatever, yielded the rights which she once possessed? Has Spain, as yet, relinquished by any formal Act or acknowledgment any part of her claim to supreme dominion over these islands? If the rights of Spain are dormant they are not extinct;..."* [183]

Secretary Livingston had employed Baylies as US *charge d'affaires* at Buenos Aires. An appointment not dependent upon the news of the *Lexington* raid. Usually *charge d'affaires* was a long term posting. Half a dozen years at least. However, it is clear from his correspondence that Baylies was not enthused by his appointment. He wrote to Washington of the evasiveness of the Confederation government. Of its disposition to defer and avoid direct answers. Within six short weeks of his arrival, Baylies spoke to friends about requesting his passport and returning to the USA. [184]

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182 *Baylies to Livingston June 20, 1832* in *British and Foreign State Papers 1832 – 1833* pp.330-336
183 *British and Foreign State Papers 1831 - 1832* p.348
184 *Baylies to Livingston July 24, 1832* in *La agresión norteamericana a las Islas Malvinas* Ernesto Fitte 1966

Livingston had also empowered Baylies to negotiate a commercial treaty. Baylies saw little reason to do so.

> *"… for we should abide by it, and they would consider the violation of a treaty no greater offence than a lie told by schoolboy. With the Bey of Tripoli or the Emperor of Morocco we might for a time maintain unviolated the provisions of a Treaty but with these people if a temporary advantage could be gained they would violate a treaty on the day of its ratification."* [185]

A month before, Luis Vernet had approached the government to suggest that Soledad be repopulated. He proposed sending "*... twenty gunners and their families, many other women, a clergyman, a doctor, a gunsmith and his four dependent employees*." Costs, he argued, could be set off against the compensation expected from the USA. There would be compensation of course. Nobody could doubt it. But Baylies had come as a shock. This time there was no speedy response for Vernet despite rumours in the city of a warship, *Sarandi*, being refurbished for a voyage to Soledad.

Not having received an answer he could accept, on August 6th, Baylies announced his intention to leave Buenos Aires. Unless he received a 'satisfactory' response on the questions raised. What he got, eight days later, was Vernet's report. Never a man of few words, a tome of more than 60 pages dropped on Baylies's desk. Vernet's account and arguments for sovereignty. But not his alone. Vernet's report had been augmented by a government lawyer, Dr Valentin Alsina. The result was somewhat contradictory. [186] It was argued that Spain had legislated over the whole archipelago after 1774. That foreign nations' respected Spain's sovereignty. That Spain punished infringements of its regulations in the islands. That the United Provinces succeeded to the Dominion from Spain before, in 1820, taking formal and solemn possession. The first acknowledgement of Jewett's 1820 claim on behalf of the dis-United Provinces. As to the contradictions, one concerned inheritance.

> *"Inheritance, indeed! the United States did not inherit the rights of England in Newfoundland, notwithstanding its contiguity; and are they to inherit those which she may have to the Malvinas, at the southern extremity of the continent, and in the opposite hemisphere."* [187]

Many of the historical interpretations were moot at best, but the work did attempt to answer the questions put forward by the US *charge d'affairs*. Pity then that he never read it. On August 18th, 1832, Baylies acknowledged the Foreign Minister's covering letter and sent Vernet's *memorial* back unopened. Along with a request for his passport. Baylies had had enough. Attempts to dissuade him failed.

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185 *Baylies to Livingston July 24, 1832* in Fitte 1966 p.252

186 *Rosas, Las Malvinas y Nuestras Desmembraciones Territoriales* Alfredo Ortiz de Rozas 1948 in *Revista del Instituto Rosas* no.13

187 Ibid. p.432

"... I had no intention of making the United States one of the parties against Luis Vernet before an Argentine court, I returned the memorial along with the note. ... I cannot predict what direction the Government will take now, because they have all the vices of men and the follies of children, without any of the virtues and feelings of any of them;... Perhaps now they want war, if we go by the rumors of the city..." [188]

"He went there; stayed there not 3 months – just long enough to embroil his country in a senseless and wicked quarrel with the Government; and, without waiting for orders from his Government, demanded his passports and came home. Nothing but the imbecility of that South American abortion of a state saved him from indelible disgrace and this country from humiliation in that concern." [189]

As is still so often the case when governments fall out, a scapegoat was required. Luis Vernet was the obvious choice. Aware that *Sarandi* was being prepared for a voyage, Vernet chose the wrong moment to request an interview with Minister de Maza. He was received coldly. Vernet asked if some of his people could travel with *Sarandi* but was then taken aback when the Foreign Minister demanded that he pay 10,000 pesos. To defray the costs of transport. Whilst declining to return himself, Vernet appealed on August 29th, 1832.

"1° May the Government allow me to send my agent and four dependents in the Sarandi, two of these (are) families. 2° Lend me the 10,000 pesos as indicated for the objects and under suitable securities. 3° That the Commander shall exercise his functions in law, and that my agent has the charge of looking after my property and trade. 4° My agent will take care of providing the Commander and his people with the necessary meat, so that he will give this one a receipt to that one. 5° That it be expressly prohibited by the Government to kill cows in the Malvinas under any pretext, the prohibition of which may be extended even to the owner of cattle. 6° I will leave the Commander and his family my private house. 7° In the meantime do not get timber from the coast so that each settler makes his own house, (instead) distribute the villagers and troops in the various houses, which are vacant, and not (those of) my people. 8° I will give free four cows to the settler who has a family, and two bulls for oxen, which he can not kill. 9° I will give every villager free with family ... as much land as (they) can cultivate, and free grazing, as long as it does not harm another." [190]

When his requests received approval Vernet, once again, believed his fortunes about to change. However, in London, on August 4th, the Lords Commissioners of the Admiralty informed Palmerston that they wished to send a ship to Port Egmont. To follow in the wake of *Beagle*. Unaware that Minister Fox had not issued the second protest ordered in March 1832, Palmerston agreed. This information went to Rear-Admiral Baker at Rio de Janeiro on August 31st, 1832. Then to Fox in Buenos Aires on September 4th, 1832.

188 *Baylies to Livingston August 19, 1832*

189 *Memoirs of John Quincy Adams, comprising portions of his diary from 1795 to 1848* C. F. Adams 1874 vol.9 p446-447

190 *AGN, Division Nacional, Seccion Gobierno, asunto Malvinas, Reclamacion Vernet, 1829-1832 y.37*

"I am to signify to your Lordships the King's pleasure that one of HM's ships be ordered to proceed to Port Egmont in those Islands for the purpose of exercising the right of sovereignty there and of acting at the said Islands as in a possession belonging to the crown of Great Britain." [191]

This order is often misinterpreted. The latter part of the sentence was only an instruction to act correctly when at the possession. As for Fox, he would later claim that his delay in presenting the protest was due to the situation with the USA. His tardiness down to a need to wait until the American dispute had resolved itself. By September, 1832, even Fox could see the writing on the wall – literally. On the 10th, a new *decree* was promulgated and posted it around the city.

"The Political and Military Commandant of the Falkland Islands and their adjacencies in the Atlantic Ocean, Don Luis Vernet, being now in this Capital, and not being able yet to return, the Government of Buenos Ayres has resolved and decrees:

Article 1. In the interim, Brevet Sergeant Major, José Francisco Mestivier, of the Artillery, is appointed Civil and Military Commandant of the Falkland Islands and adjacencies in the Atlantic Ocean.

Article 2. Let it be communicated through the Department of War and Marine, charged with carrying into effect and publishing this Decree; and by the same Department let the instructions agreed upon be given to Sergeant Major Jose Francisco Mestivier."

Baylies and Slacum were aboard USS *Warren*, when the notices went up. As a snub to the departing US envoy, Fox described this *decree* as a "*silly show of defiance*." [192] Even so, *Sarandi*, under the command of Lieutenant-Colonel José María Pinedo, sailed on September 23rd. On board were 46 crew, 13 marines and a garrison. Under the command of Mestivier, this garrison consisted of 28 soldiers accompanied by wives and children. Plus one prisoner for menial tasks. Also aboard were Vernet's employees – William Dickson, Ventura Pasos, Henry Metcalf, Antonio Vehingar, William Drake, Charles Brazier, José Viel and Juan Quedy. Matthew Brisbane acted as *Sarandi*'s pilot.

Five days later, on September 28th, 1832, Minister Fox issued Britain's second warning against trespass in the archipelago.

"The Undersigned, has observed, a decree lately published by the Government of Buenos Ayres, bearing date September 10 by which a Civil and Military Commandant, ad interim, is appointed over certain Stations in the Atlantic Sea, including the Falkland Islands. His Excellency Senor Don Manuel Vicente Maza, Minister charged with the Department of Foreign Relations is aware that, as soon as the Decree of the 10th June 1829, issued by the Revolutionary Authorities at that period in possession of the Province of Buenos Ayres, and

191 *Palmerston to the Lords Commissioners of the Admiralty August 30th, 1832* in *FO 6/499*
192 *Fox to Palmerston October 15, 1832 FO 78/1/177-184*

containing certain provisions for the Government of the Falkland Islands, had been made known to His Britannick Majesty's Government, an official Protest against any assumption of right of sovereignty over those Islands, on the part of the Argentine Republick, was, in pursuance of the express orders of his Court, presented to the Government of Buenos Ayres, by the Charge d'Affaires of His Britannick Majesty. ... it becomes his duty now again officially to declare to the Government of Buenos Ayres, that the Sovereignty of the Falkland Islands, which compose a part of the Command granted in the Decree above alluded to, is vested in the Crown of Great Britain; and that no act of government or authority can be exercised over those Islands by any other power, without infringing upon the Just Rights of His Britannick Majesty."

As in 1829, the government of Buenos Aires merely acknowledged receipt.

"The Supreme Government .., has given to it the due consideration to which it is entitled and will be prepared to reply to the same, whenever it may become expedient to make known the Rights of the Argentine Republic over that Territory." [193]

Sarandi arrived at Puerto Luis on October 7th. A formal ceremony of possession took place on the 10th. Buenos Aires repeating Vernet's ceremony of 1829. Perhaps they felt that no-one had paid sufficient attention the first time. Seven weeks later, on November 30th, 1832, with *Sarandi* on patrol, the garrison mutinied and murdered Acting-Governor Mestivier. Followed by a week of rioting. All watched by the crews of two ships; the British *Rapid* and the French *Jean-Jaques*. Settlers, gauchos and loyal members of the garrison sought refuge on these vessels. Once the orgy of rioting and destruction abated, the ever-loyal Jean Simon organised a militia. Gauchos, aided by the ships' crews, restored order and placed the mutineers aboard *Rapid* in chains.

On December 9th, *Jean-Jaques* sailed for Montevideo, carrying Mestivier's widow and news of the mutiny.

On the 15th, reports of a British warship reached Buenos Aires.

"It is said, according to the letters received from Rio de Janeiro, that HMS Clio was about to leave Rio de Janeiro on the 17th past for the Falkland Islands, in order to take "sovereign possession" of those islands in name of His Britannic Majesty. Another report states that the purpose of the Clio's visit to the Falkland Islands is simply to study its present condition, and to report on it." [194]

Onslow

At Rio de Janeiro, on November 28th, 1832, Rear-Admiral Thomas Baker issued orders to John James Onslow. Commanding HMS *Clio*. He was to go to Port Egmont.

193 *FO 78/1/189*
194 *British packet & Argentine News December 15, 1832*

"The Right Honourable the Lords Commissioners of the Admiralty, having, in pursuance of His Majesty's pleasure, signified to me their directions to despatch a ship of the squadron under my orders to Port Egmont, in the Falkland Islands, for the purpose of exercising the rights of sovereignty there, and of acting at the said islands as in a possession belonging to the crown of Great Britain; you are hereby required and directed to put to sea tomorrow morning in his Majesty's sloop Clio, under your command, and proceed with all expedition to Port Egmont, for the purpose of exercising the rights of sovereignty over the said islands, and of acting thereat as in a possession belonging to the crown of Great Britain accordingly.

On your arrival at Port Egmont, you will immediately restore the symbols of his Majesty's sovereignty over the Falkland Islands, consisting of the blockhouse, flag-staff and flag, formerly erected there by England, if you find such symbols have disappeared or fallen into decay; and you will, with that view, hoist the British union flag on shore, and proceed to repair Fort George if any part of it remains, or to construct a new small fort or block-house on its ancient site, of adequate dimensions, on which, when it is completed, you will erect a permanent flag-staff, and keep the British union flag constantly hoisted. … should you find, on your arrival at Port Egmont, any foreign persons in military force, who, affecting to be in possession of that port, may have hoisted a foreign flag, or shall attempt to resist your landing or operations, in obedience to these instructions, you are, in the first place, to acquaint the chief person commanding such force with the object of your mission; request to be informed of the reason of the force under his command being there in a British settlement; and, in terms of civility, require that the flag, if any be hoisted, be immediately struck, and that the force may be quickly withdrawn.

You will then wait his reply, and, should he promptly comply with your request, you will, under due caution, afford every facility in your power for the embarkation and orderly departure of the foreign force in question, with any property to which such force may have a just claim; but if, on the contrary, your request for such flag to be struck, or for such foreign military force being withdrawn, should be refused, and objections of any sort be raised against compliance, you are, providing you deem the force of the sloop under your command adequate to the duty of forcible expulsion, to command, in the name of his Majesty, the said foreign person exercising chief authority, and all foreign military persons whomsoever, to lay down their arms and quit forthwith at their peril, the British possessions. And if, after this command, any further hesitation or resistance be attempted, you are to compel them to depart; observing that, in the event of your being obliged to have recourse to this painful measure, which you are only to adopt in the last extremity; you are to execute it with all moderation, consistent with its effectual accomplishment. And you are to admit of no compromise or evasive delay under any pretence whatever, if there be vessels present to convey such military persons away; it being his Majesty's purpose to keep up and maintain his sovereign rights over these Islands. ..." [195]

Onslow was cautioned, that should he find a superior force there, "*or in any other port or place in the said islands,"* he should withdraw and seek further instruction.

195 *FO 6/500/181*

Clio sailed the next day with HMS *Tyne* (Capt. Hope) instructed to follow. Arriving in the harbour of Port Egmont on December 20th, 1832, Onslow raised the Union Flag. He then secured an inscription to the flagpole before reconnoitring the area.

> *"These Islands have been visited by His Britannic Majesty's ship Clio, for the purpose of exercising the rights of sovereignty. 23rd December, 1832"*

> *"During our stay at Port Egmont the boats were employed to examine into Brett's Harbour, Byron's Sound, Kepple's Sound and as far westward as Point Bay, 60 miles from our anchorage, to search for inhabitants but found none. I was therefore led to believe, with reference to that part of your orders which pointed out the probability of a foreign force being in these islands (if any existed), I should find them in Berkeley Sound, to the eastward. Not having met with the obstructions at Port Egmont mentioned in the 7th and 8th Paragraphs of your orders I did not conceive myself justified in waiting at that Port for H.M. Ship Tyne, as I had been ten days there. I left a sealed bottle at the fort to acquaint Captain Hope that I had sailed for Berkeley Sound..."* [196]

No trespassing foreigners were to be found. So, after waiting ten days for *Tyne*, Onslow left Egmont harbour to check on reports of a settlement to the east. At the same time, *Sarandi* sailed into Berkeley Sound. Taking command, Pinedo ordered the arrest of the garrison's Adjutant and two others. Adding to those already in chains.

He was reorganising the stronghold when, on January 3rd, 1833, HMS *Clio* arrived.

> *"I... found a settlement under a BA flag, with 25 soldiers and also a national schooner of war under the same flag. I waited upon the commander of the schooner. He informed me he commanded both afloat and ashore. I acquainted him civilly with the object of my mission and requested him to embark his force and haul down his flag on shore, he being in a possession belonging to the Crown of Great Britain. At first he acquiesced provided I would put the same in writing, which I did ...*
>
> > *"I have to acquaint you, I have received directions from his excellency the commander-in-chief of his Britannic Majesty's ships and vessels of war, South American station, in the name of his Britannic majesty, to exercise the 'rights of sovereignty over these islands.' It is my intention to hoist, tomorrow morning, the national flag of Great Britain on shore, when I request you will be pleased to haul down your flag on shore, and withdraw your forces, taking with you all stores, &c. belonging to your government." ..."* [197]

Buenos Airean general orders called on commanders to defend their position. Even in the face of superior forces. Forbidden to surrender until half the ammunition, and men, were

196 *Onslow to Baker January 19, 1833* in *FO 6/500/189*
197 *Ibid.*

gone. Stirring stuff, but when Pinedo took stock, he hesitated. At his disposal was a mutinous garrison, some in chains, and a ship's crew. A crew that consisted mostly of English sailors. Pinedo tried to stall; asking for time to send for further orders. Onslow said no. The Lt.-Colonel then agreed to leave on the 5th but asked that his flag on shore remained until then. Onslow, again, said no. Pinedo then withdrew to his ship, leaving his flag flying at the garrison. So it was that Onlsow struck the Confederation's colours. Treated with respect, the ensign was returned to Sarandi with a message. A 'foreign flag' had "*been found*" in the territory of His Majesty.

> *"At nine o'clock in the morning of the 3rd, three boats, manned with seamen and marines from the English sloop, landed at the point of Port Luiz, and placing a staff at the house of an Englishman, about four squares distant from the commandancy, they hoisted thereon the British flag, and then proceeded to strike that of the Republic, which was still flying; and which was immediately delivered to the Sarandi by an officer sent for that purpose."* [198]

Fight or flight. With limited options, Pinedo backed down; sailing from Puerto Louis on January 4th, 1833. Before leaving, he gave those settlers remaining the option to go with him. Two men and their wives chose to do so, as did Vernet's managers. Those wishing to remain included Jean Simon, Vernet's gaucho foreman and creditor. Pinedo handed command of the settlement to Simon, but it is unclear whether the illiterate gaucho understood. He certainly made no attempt to exercise authority on behalf of Buenos Aires. Or on behalf of anyone. Why Simon? Ventura Pasos and Henry Metcalf were leaving with Pinedo. William Dickson was British. Simon, then, was the most senior South American there. What *Sarandi*'s pilot, Brisbane, was doing at this time is unknown. He appears to have played no part. *Rapid*, carrying some of the mutineers, followed *Sarandi*. Three other seamen, sealers without doubt but described as 'foreigners,' went with them. For his decision to abandon the fight, Lieut-Colonel Pinedo would be tried and convicted of dereliction of duty. Cashiered on March 7th, 1833. Other Puerto Louis mutineers were also convicted. Punishment varied from banishment to execution.

On January 7th, Onslow called together all those remaining. Six settlers, twelve gauchos, three women, and a child. Gregoria and Carmelita were the last of Vernet's indentured slaves. Jean Simon was the child's father. The third female was Antonina Roxa, who had arrived with the garrison. Her 'husband' had left in chains so perhaps she saw a brighter future on Soledad. Only one British citizen was present. William Dickson, the settlement's Irish storekeeper. He became Britain's temporary representative with one duty. To raise the Union flag every Sunday. The gauchos were needed to hunt and feed the settlement. So, to ensure that some remained, Onslow paid their outstanding wages in silver. He then sailed for Montevideo on January 10th. With him went two settlers. William Drake was considered an 'undesirable.' Charles Brazier as 'distressed.'

198 *Annual Register* 1833 p.373

That same day, HMS *Tyne* finally arrived at Port Egmont to find Onslow's marks and signs of sovereignty, an American sealer *Courier*, but no *Clio*. Finding a note, *Tyne* followed. She arrived in Berkeley Sound on January 16th. A passenger, Belford Hinton Wilson, Britain's new Ambassador to Peru, described what he saw in the two days that *Tyne* remained there.

> *"The Gauchos or inhabitants of the plains of Buenos Ayres are employed in lasoing wild Cattle and to attending to them after being collected in herds... Their employer brought them fron Buenos Ayres under promise of paying them monthly, twenty dollars in silver but instead of which he merely issued to the Paper of his own coining to this amount, so that in fact it was perfectly valueless, except in exchange for commodities which they purchased at a high price of his Storekeeper, Mr. William Dickson. The few trifles a Gaucho requires, procured from Mr. Dickson by means of this Paper, were therefore all the Wages Vernet ever paid his Colonists and Servants until the arrival of H.M.'s ship 'Clio' when they were paid in silver."* [199]

Onslow's act of raising the British flag over East Falkland/Soledad lies at the heart of a controversy that has raged into modern times. Described by Argentina as a usurpation, it would lead to a war 149 years later. Territory inherited from Spain, usurped by Britain. So it is claimed. Despite such a theoretical inheritance not being recognised back then. Nor now. It is regularly argued that Onslow, by going farther than Port Egmont, exceeded his orders. This was not the case. Paragraph 2 of Baker's orders to Onslow stated - "*On your arrival at Port Egmont, you will immediately restore the symbols of his Majesty's sovereignty over the Falkland Islands...*" (plural). Another paragraph included the words - "*Should you, on the other hand, be of opinion, that any such foreign force which you may find at Port Egmont, or in any other port or place in the said islands, are decidedly superior to the force of the Clio...*" Onslow was not limited to Port Egmont by his orders. Nor to West Falkland/Gran Malouine. It is also the case that naval officers of that period, being out-of-touch for months at a time, were permitted a wide margin of interpretation. Unlike Jewett's 1820 claim, Onslow's action would be approved of and adopted by his government. But before that, the news would reach the Argentine Confederation. During the evening of January 15th, *Sarandi* and *Rapid* arrived off Buenos Aires.

> *"The Buenos Ayres schooner of war Sarandi, from the Falkland Islands, having on board the garrison of the said islands, which had been sent from thence, arrived at this port on the 15th, and brings intelligence that on the 3d his Majesty's ship Clio had taken sovereign possession of them in the name of his Britannic Majesty. This occurrence has caused a great deal of excitement in Buenos Ayres; the natives declare it to be a more vile proceeding than that of the American corvette Lexington, because they looked upon Great Britain as their kind and sincere friend, and as a protector, rather than a destroyer. ... The Americans here chuckle a great deal at it, because it has shifted all the odium from their shoulders to those of John Bull."* [200]

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199 *FO 78/1/212-213*

200 Quoted in the *London Evening Standard Monday April 22, 1833*. This letter was apparently posted up in the North & South American Coffee House; a place for London merchants to meet.

9

Murder

"In August ... my agents and the principal settlers were massacred." [201]

Minister Fox presented Britain's second protest five days after *Sarandi* had sailed. Just as he was due to leave for a new post in Brazil. Yet another diplomat who could not get away quick enough. His timing for the protest is intriguing, but Palmerston could do nothing. He would eventually approve Fox's late presentation. There not being much choice. Left behind in Buenos Aires was Britain's hapless *charge d'affaires,* Philip Gore. He was well aware that trouble was coming. Prewarned, Gore battened down the diplomatic hatches and awaited the storm. The rumour of which first reached Buenos Aires on January 14th, 1833. Ahead of the ships working their way slowly up river. The first question came from Foreign Minister de Maza on the 16th. Gore told the truth – he had no instructions to say anything. Some commentators have interpreted this as Gore not knowing anything, but there is a huge difference. Gore knew. He had been made aware of Onslow's orders by Rear-Admiral Baker in a letter dated November 30th, 1832. Indeed, Gore was sufficiently concerned on January 3rd to request that a British ship move closer to the city. In case he needed a speedy departure. But, without specific instructions from London, Gore could not impart anything he knew. The second question came when Gore attended the Foreign Ministry on the 18th. Then de Maza complained that the rights of the republic had been infringed. Gore responded as best he could.

> *"... the occupation of the Falkland Islands by Great Britain could be a matter of no surprise to HE... since, in 1829, formal intimation had been given to the Buenos Ayrean Govt of HM's rights of Sovereignty over those Islands. The present measure was a natural and necessary consequence of that intimation, then so explicitly made, and lately, in 1832, as categorically repeated."* [202]

As Gore feared, the journals in Buenos Aires whipped the population into a frenzy - "*Death to the English!*". [203] Within two months, Charles Darwin would refer to the continent as being in 'turmoil'.

Meanwhile, Onslow anchored off Montevideo on the 19th to send, as instructed, an account of his action to Gore. The commander also wrote to Baker at Rio de Janeiro recommending that a small force be sent to preserve order at Port Luis.

> *"... Not finding any inhabitants or the foreign Settlement alluded to in the Commander in Chief's (orders) at West Falkland, I sailed to Berkeley Sound, East Falkland, where I arrived on the 2nd January, 1833 and found the settlement with 25 Soldiers under the Buenos Ayrean*

201 *Vernet to the Earl of Derby, April 26, 1858* in *CO 78/43*
202 *Gore to Palmerston February 14, 1833* in *CO 78/1/247*
203 Caillet-Bois (6th ed.) 1982 p.334

Flag; also a Schooner of War under the same Colours.... I acquainted the Buenos Ayrean Commander, civilly, with the object of my Mission to these islands, and requested him to haul down the Flag on shore, and to embark his Force,- "he being in a possession belonging to the Crown of Great Britain; that I came to these Islands, to exercise the Right of Sovereignty over them."..." [204]

"... a Force is absolutely necessary to preserve order and authority; to protect the well disposed settlers in their peaceable agricultural, fishing and other pursuits and to prevent bad characters from landing in the Colony... I regretted to observe a bad spirit among the Gauchos; they appeared dissatisfied with their wages." [205]

The Argentine Confederation appealed to all its neighbours for support, but only Bolivia responded. Considering their antagonistic history, it was unsurprising when Montevideo appeared lukewarm. News spread further. To London and Madrid. There was a single reaction from Spain. It finally picked up the request for information from Washington of the year before. Diplomacy moved at a slow pace in Spain and rumour had it that Ferdinand was not a well man. General Rosas was also ill; being out of Buenos Aires when news of events at Soledad arrived. Real or diplomatic? Rosas had a knack of not being around at the right times. Among his Ministers there was much fist-waving, but little else. The Confederation was incapable of challenging Britain, so the decision was to settle for a paper protest. First to Gore and then through the Confederation's Minister in London. Claims for restitution and compensation would follow. Satisfaction was to be achieved, diplomatically. After its recent experience, Buenos Aires also believed that the USA would refute any British rights to the archipelago. Despite diplomatic relations having, in effect, ceased with the departure of Baylies and Slacum. Argentine Ministers never lacked for confidence.

A beleaguered Gore received a formal protest on January 29th, 1833.

"... the undersigned protests in the most formal manner against the pretensions of the government of Great Britain to the Malvina Islands, and its occupation of them, as likewise against the insult offered to the flag of the Republic, ..." [206]

Amidst all the anger and confusion, Vernet knew that he needed to assert some control over the settlement, if he was ever to get back. But he could not be seen to rush to the archipelago and accept British dominance. The question of *Harriet*, rotting in the harbour, remained undecided. And then it was possible that negotiations could lead to Britain's withdrawal. Leaving him on the wrong side. With little choice, the lead role for Vernet's business venture fell to Matthew Brisbane. A proxy but also, if necessary, a scapegoat.

204 *FO 6/500/116.* Original emphasis
205 *FO 6/500/189.* Original emphasis.
206 *Niles' Register April 27, 1833* p.136

Vernet chartered *Rapid* to take Brisbane, Ventura Pasos and secretary Thomas Helsby to Port Louis. Also, two gauchos and a Charrúa Indian to join others sent out in 1831. Ever short of cash, the charter left Vernet without sufficient funds for wages. With no silver to pay the gauchos, Vernet fatally instructed Brisbane to return to a system he had used before. Paper tokens, only redeemable at the store operated by William Dickson.

On March 1st, 1833, *Beagle* arrived at Puerto Louis with Fitzroy and Charles Darwin on board. Followed two days later by *Rapid*. In the interregnum following the *Lexington* raid, the settlement had survived under the management of Jean Simon. He had used silver from beef sales to pay wages. The garrison's arrival interrupted that and there had been no pay at all until Onslow settled up. In silver. Brisbane, with paper tokens, was met with disbelief and no little rancour.

Fitzroy interviewed Brisbane on March 4th. He confirmed that Brisbane's authority was only as a business agent. That he carried no papers from Buenos Aires or the Confederation. So Fitzroy allowed Bisbane to resume management of Vernet's beef business. Ships, hearing that things had changed, started to return to Port Luis. Among these was the American sealer *Sun*, a French sealer, *Rosa*, and *Unicorn*, still commanded by William Low. Down on his luck, Low sold *Unicorn* to Fitzroy, who renamed the ship, *Adventure*. A few of the crew stayed with the vessel, but nine, and Low, stayed at Port Louis until they could negotiate passage with another ship. While waiting they sealed in Berkeley Sound. *Adventure* sailed for the Rio Negro on April 4th, 1833. *Rapid* for the Rio de la Plata, with hides for Vernet, on the 5th. *Beagle* left the day after. As he sailed away, Fitzroy was worried.

> *"Including the crews of some thirty whale-ships, hovering about or at anchor amongst the islands; the men of several American vessels, all armed with rifles; the English sealers with their clubs, if not also provided with rifles; those cut-throat looking gauchos, the discontented, downcast Indian prisoners, and the crews of several French whalers - who could not or would not see why they had not as good a right to the islands as Englishmen - there was no lack of elements of discord; and it was with a heavy heart and gloomy forebodings that I looked forward to the months which might elapse without the presence of a man-of-war, or the semblance of any regular authority."*[207]

Word of Onslow's action finally reached English newspapers on April 14th, 1833. Reports picked up by the Argentine Confederation's Minister to the Court of St. James, Manuel Moreno. Moreno wrote to the Foreign Office on April 24th, wanting to know if Onslow had been acting under orders. Moreno referred to a discussion about the islands as 'pending,' despite Britain having never received any response to its protests of 1829 and 1832.

207 Fitzroy 1839

On the 27th, Moreno received an answer from Viscount Palmerston. At that time, Palmerston's nickname was not 'Gunboat' although he would become associated with that diplomatic style. It was 'Lord Pumice Stone,' for his abrasiveness.

> *"... the proceedings of the Commander of the "Clio" took place in consequence of instructions given by HM's Government to Admiral Baker, ... Admiral Baker was ordered to send a ship-of-war to the Falkland Islands, to exercise there HM's ancient and undoubted rights of Sovereignty and to act there as in a possession belonging to the Crown of Great Britain; and, of course, if there should be found in those Islands any foreign persons or military force not acknowledging the Sovereignty of HM, the Commander of the ship of war was to request such persons or such military force to withdraw;..."* [208]

Palmerston was not in receipt of Onslow's report when he replied to Minister Moreno, but was when writing to Gore a week later. Palmerston instructed the *charge d'affairs* on how he should respond to Confederation protests.

> *"...HM is not accountable to any foreign Power for the reasons which may guide them in making such arrangements with respect to territories belonging to the British Crown."* [209]

Hardly abrasive at all. On June 17th, 1833, Moreno submitted a *Memoria and Protest* to Palmerston. In this he laid out the arguments for Argentina's rights to the archipelago, alleging a discovery by Magellan in the 1520s. Also a recognition of Spanish rights by England in 1771 accompanied by a 'secret' agreement and an assertion that Argentina had succeeded to Spain's title. Much of this was a copy of Vernet's 1832 *memorial*. The one unread by Baylies. It seems unlikely that Palmerston would have had the patience to read Moreno's missive either. Someone was prevailed upon to do so, however, resulting in an order by King William IV for Britain's archives to be searched for the 'secret promise.'

William was not the only monarch to order research into the history of the Falklands. In Madrid, a decision had been taken to respond to the question submitted by the USA in April 1832. A resolution undoubtedly fuelled by reports arriving from South America. In August, 1833, historian, and Director of Spain's Hydrography Department, Don Martin Fernandez de Navarrete, was asked to investigate. He was also to look for evidence of a secret accord between London and Madrid in 1771. Navarrete's remit was wide; leaving an impression that Spain's government had no idea what the USA was talking about. Six weeks later, the historian reported that he was at a loss too.

> *"Excellent Sir ... If in 1770 there was a secret agreement between our government and the English (according to the note passed by the Minister of the United States) the same quality of secrecy will have caused that it has been hidden to the public and that, consequently, has not come to my notice; but if it really exists, it cannot but be found among the papers of the archives of the secretariat of state, if they were not transferred to the one of those Simancas of that time. It*

208 *Palmerston to Moreno 27, April, 1833* in *FO 6/500*
209 *CO 78/1/239*

follows from all (this) that the Falkland Islands, as corresponding to the Viceroyalty of Buenos Aires prior to the insurrection, belong in law to Spain like all other countries of that part of America, until His Majesty determine their fate for succession, with respect to the interests of our nation. This is all that I can manifest in the fulfilment of the aforementioned royal order of August 29 last."

Navarrete had found documents relating to the 1767 take-over of East Falkland from the French, but then the records jumped to the Malaspina expedition of 1789. A leap of 22 years with no reports or files. Nothing about the 1771 convention. Seemingly kept as secret as Secretary Harris had reported at the time. There was a gap in Spain's archives. A Spanish loss of face in 1771 erased from history. Then, unexpectedly, King Ferdinand died. He left an infant as his heir and a power struggle that would complicate Spain's governance for a decade. As a result, Navarrete's result was merely noted by Don Francisco de Zea Bermudez in October 1833. What happened to it after that is uncertain as Spain's response to the USA has not come to light. However, a 1904 work by an Argentine diplomat [210] implied that Washington did receive an answer. Albeit merely a bland assertion of Spanish rights to all its old colonies. Something that Madrid could not countenance changing until 1836; nor put in place until the 1860s.

Spain did not protest Onslow's action at the Island of Soledad in 1833. It is unlikely that they would have seen it as important enough, while the throne itself was being argued over. This left the USA no further forward in its row with the Confederation. Onslow's ejection may therefore have been seen as fortuitous. Easier to fend off the frequent complaints associated with the *Lexington* raid until Buenos Aires resolved its dispute with Great Britain. The USA could wait. As for the Monroe Doctrine, it was a US construct and only open to US interpretation. It was deemed that the Doctrine did not apply to territories with an established European occupation that predated 1823. Sidestepped. Palmerston, meanwhile, awaiting a result from Britain's archives, sent an order to Rear-Admiral Seymour at Britain's Rio de Janeiro station; "*... to appoint a Lieutenant from under his command to reside and take charge of the British Interests at the Falkland Islands... together with a boat, and boats crew of four men...*" [211]

Oblivious to these political manoeuvrings, life at Port Luis continued much as it had before the 1831 American raid. Wild cattle were caught, butchered and sold to passing ships. Hides and seal skins sent to Vernet in Buenos Aires to sell. Then, in June 1833, Matthew Brisbane ordered the building of a new coral. As this was beyond the gaucho's contract terms, Brisbane had to negotiate a price; entering into an agreement to pay in silver. Payment guaranteed by Jean Simon. After sending a cargo of hides and jerked beef back to Buenos Aires on *Rapid*, Brisbane must have expected funds to return with the ship.

None did. Not by the time the work was completed at the end of July 1833. Paper tokens were not going to be enough. At Port Luis in the first days of August were:

210 *Recuerdos de Mi Vida Diplomatica* V. G. Quesada 1904
211 *August 14, 1833* in *CO 78/1/257*

"*Capt. Matthew Brisbane, superintendent; Thomas Helsby, William Dickson, Don Ventura Pasos, Charles Kussler, Antonio Vehingar, (known at Buenos Ayres as Antonio Wagnar,) Juan Simon, (Capataz,) Tanstin Martinez, Santiago Lopez, Pascual Diaz, Manuel Coronel, Antonio Rivero, Jose Maria Luna, Juan Brasido, Manuel Gonzales, Luciano Flores, Manuel Godoy, Felipe Salazar, and Lattorre (the last five being Indians, having been sent by the Governor of Monte Video to this island for bad conduct); three women, viz. Antonina Roxa, Gregoria Madrid, Carmelita and her two children. Also, Captain William Low, and a boat's crew, late of the schooner Unicorn, were temporary residents … viz. Henry Channen, John Stokes, Daniel Mackay, Patrick Kerwin, Samuel Pearce, George Hopkins, Joseph Douglas, Francis Machado, and Jose Manuel Pardo; likewise two men of colour …. honest John and …. (Antonio Manuel.)"*[212]

Brisbane's return had not been welcomed by the gauchos. They did respect the authority of Jean Simon, however, but when even his guarantee turned out to be worthless, grievances boiled over. Feeling cheated, the grumbling grew into a conspiracy.

On the night of August 25th, 1833, ammunition was purchased from two English sailors by gauchos Antonio Rivero, Juan Brasido and Jóse María Luna. Also party to the scheme were Charrua Indians – Manuel González, and Latorre. Capt. Low and his sealing crew were still at the port but as chance would have it, if chance it was, Low and five of his men departed on a hunting trip early the next morning. Once Low was out of sight, Antonio Rivero led a murderous attack on Vernet's managers, overseers, and storekeeper. A short, bloody, riot.

"I met Antonio Rivero, Jose Maria Luna, Juan Brasido, Manuel Gonzales, Luciano Flores, Manuel Godoy, Felipe Salagar and Lattorre, running towards the point armed with muskets, pistols, swords, dirks and knives. It was very evident they were going to kill someone, and I hastened towards the house of Captain Brisbane, for the purpose of informing him of what was going on. On my arrival I was alarmed at finding the doors locked and after knocking some time, was surprised at learning from two of the women that the aforesaid eight men had killed Captain Brisbane, Capitaz Juan Simon and had left Don Ventura for dead, he having been wounded by a musket ball in his throat, his head cut open, and his hand almost cut off by a sword, afterwards he escaped by a back window, and reached the house of Antonina Roxa, about 50 or 60 yards distant. On my way up from the point, I heard two musket shots fired at the house of Antonio Wagnar, where they killed him, and William Dickson, to which two of the boats crew Joseph Douglas and Daniel McKay, were eye witness. ... They then returned to the house of Captain Brisbane, and not finding the body of Don Ventura, searched for him and on finding him, he ran out, when I saw him killed by their firing 2 or 3 musket shots at him." [213]

"(Daniel McKay) says he was in Wagners house when seven men on foot and one on horseback came. He does not know them all by name but can point them out. Knew Felipe (Salazar) he was on horseback: saw him cut Dickson down with a Sabre and saw Dickson shot afterwards

212 *The Nautical Magazine* 1834. Gauchos Domingo Valleja and Pedro Fermin had died.
213 Taken from *Thomas Helsby's Account*

but by whom of the party he cannot say for he was too much alarmed to distinguish. Saw Felipe's brother as he is called (Latorre) beating Wagner on the head with his Balls (*These stones of a pound weight each, connected together by hide thongs i.e. knocking him on the head) when he was on the ground, then he McKay and Douglas ran for their lives. Dickson and Wagner were called out of the house by the murderers and killed outside. … Knows the old man Luna. Saw him of the party on foot with a horse pistol in his hand."* [214]

"(Jose Maria Luna) The cause of the disgust which led to the murder of Brisbane and the others was the paying them in paper instead of silver as had been agreed upon. 1 Rivero or antook, 2 Luciano 3 Godoy 4 Salazar or Felipe 5 Latorre 6 Juan Brasilio or Rubio 7 Gonzales 8 Luna were the eight who determined on a Revolution. Simon was the first killed … by Rivero with a musket. The Ball broke his arm and entered his side… Did not see this murder but heard Rivero say he had done it and describe the manner. Brisbane was the second killed & in his own house did not see this but heard Rivero say he shot him as he was getting his pistols – and Luciano said He stuck him in the side with his knife. Saw the gunshot wound and the stab after Brisbane was dead. Saw them chasing Ventura as he ran at the back of the house. I saw Latorre throw his Balls and catch him by the legs so that he fell. Saw Rubio and Luciano strike him with swords. … broken open Simon's house and taken swords guns and pistols from it. … Antonio (Wagner) was first killed here. Rivero/Antook called him out he came stooping low Antook put a musket to his side and shot him and he reeled a few paces fell on the ground when he was cut over the head by Luciano and the others who surrounded him. Guiliermo (Dickson) was the next killed… he ran... Felipe who was on horseback rode after him and cut him down with a Sabre. The rest ran up and fell upon him. … Two Englishmen ran away from the house… did not kill the Englishmen because they intended to make them convey them to Patagonia. Saw Rubio murdered in the Campo. He was coming to give himself up and they did not approve of this… Felipe struck him with a sword..." [215]

Uninvolved gauchos and settlers barricaded themselves in houses and awaited their fate. As witnesses, their future could not have looked rosy. After a stand-off, the murderers withdrew. They took all the settlement's arms and horses with them. They also set the boats adrift. Left alone, those still alive managed to retrieve one of the boats and made for the relative safety of Hog Island, some 250 yards offshore. There they raised the Union flag, as a signal. Thirteen men, three women, and two children, fortified that little island as best they could and waited. Four days later they moved to the nearby Turf Island and after Low's return on September 13th, the defenders split their forces over both islets. Low and his crew then occupied Kidney Island on the south side of the mouth of Berkeley Sound. Well placed to watch for ships.

More than a century after these events, an Argentine author of children's books wrote about Rivero's plot and murderous strike. The book described Rivero as a revolutionary

214 *ADM 1/43*. Original emphasis. From an interview by Rear-Admiral Hamond in January, 1835
215 *Ibid*. Original emphasis.

hero. A leader of resistance to Britain's usurpation. Raising the flag of the Argentine Confederation over Puerto Luis in an act of glorious defiance. Utter tosh. A fantasy for children. One flag flew during those weeks. Britain's Union Jack. Flown by the survivors on their tiny islands. The dead were all Vernet's men. Any potential that his business may have had, destroyed by his own unpaid employees in an act of revenge.

Finally, on October 23rd, 1833, an aptly named British sealer, *Hopeful,* appeared over the horizon. On board was an attached Royal Navy Lieutenant.

> *"... As I did not like the appearance of many I found on Hog Island, I sent down for Capt. Low and the next morning went with two armed boats to the town where I found all the trunks and boxes broken open & the beds & every article in the houses ransacked and cut to pieces. - The body of Mr. Brisbane was a quarter of a mile from the houses where I was told it was dragged to by some of the Indians on horseback after the murder;.. the dogs had fed on it... the rest of the bodies were buried at the town near where they were killed. I then hoisted an English Jack at the flagstaff which I have left flying."* [216]

Lieut. Rea wrote letters to be passed on to ships bound for Rio de Janeiro or Montevideo, but could not stay himself. After offering what little aid he could, *Hope* sailed on November 17th, 1833. Other ships passing by offered scant assistance, although Low was taken off. The refugees sat it out for a further four months before the arrival of HMS *Challenger* on January 7th, 1834. Sent in response to Palmerston's order of August 14th, 1833. *Challenger* carried Lieut. Henry Smith and a boat crew appointed by Rear-Admiral Seymour. Smith's first task on landing was to organise the repair of enough houses for shelter. Once done, he, and a party of armed marines from *Challenger*, set out to search for the fugitives. Jose Maria Luna was the first found; surrendering himself with an offer to turn King's evidence against his comrades. Leniency for evidence. *Challenger* sailed on January 21st, leaving a squad of marines to assist Smith. It took away a prime witness; Thomas Helsby, and a gaucho, Tanstin Martinez. The settlers then remaining included Charles Kussler, Antonina Roxa, Gregoria Madrid, Carmelita, two children and three gauchos: Santiago Lopez, Pascual Diaz, and Manuel Coronel. Smith is often listed as a Governor. He was not; designated as 'Resident Naval Officer'. Santiago Lopez surrendered on January 31st. Four Indians and Rivero soon followed; escorted back to Port Louis on March 7th, 1834. Channon was afterwards arrested, and an injured Indian retrieved from St. Salvador Bay. All were placed in chains.

Beagle returned to Port Louis on March 12th with a cargo of wood for the settlement. Charles Darwin noted in a letter to a friend that there appeared to be more prisoners than settlers. After a year's absence, Fitzroy took a walk. Keen to see what had changed.

> *"When I visited the settlement it looked more melancholy than ever; and at two hundred yards distance from the house in which he had lived, I found, to my horror, the feet of poor Brisbane*

216 *Report of Lieut. Rea, Hopeful, Johnsons Harbour, East Falkland November 16, 1833* in *ADM 1/42*

protruding above the ground. So shallow was his grave that dogs had disturbed his mortal remains, and had fed upon the corpse. This was the fate of an honest, industrious, and most faithful man: of a man who feared no danger, and despised hardships. He was murdered by villains, because he defended the property of his friend; he was mangled by them to satisfy their hellish spite; dragged by a lasso, at a horses heels, away from the house, and left to be eaten by dogs." [217]

Beagle's official artist sketched the scene with Britain's naval ensign flying. The ship sailed again on April 7th, 1834. With it went Antonio Rivero, Jóse María Luna, and Henry Channon. *Conway* took the others together with the witnesses and marines on April 13th, 1834. Eventually, all prisoners and witnesses, except Helsby, would be reunited in Rio de Janeiro. Which is where Rear-Admiral Hamond found them on his arrival in December 1834. Prison-ship conditions were not good. One detainee, Felipe Salazar, was dead. Then the witness Helsby refused to travel to England, despite an earlier promise to do so. That left Hamond to do what he could in gathering together affidavits and statements. Despite some initial doubts about the quality of the evidence, Hamond had the prisoners; Antonio Rivero, Manuel Gonzales, Luciano Flores, Latorre, Manuel Godoy, loaded onto HMS *Snake*. With them went witnesses: Jose Luna, Daniel McKay, Henry Channon, George Hopkins, John Stokes and Patrick Kirwan. All bound for England.

"*... there are no other means by which I can deal with them according to law, so far as I can learn from the Admiralty Statutes... the act 46 Geo.3 directing that offences in places under British dominion shall be tried in England.*" [218]

Snake arrived on March 12th, transferring its prisoners to the flagship at Sheerness to await transfer to London and trial. Conditions were no better there than in Rio. Latorre died while awaiting transfer. Before trial, a legal opinion was sought from the Law Officers. These were Sir John Dodson (Advocate-General), Sir John Campbell (Attorney-General) and Sir Robert Rolf (Solicitor-General). Three questions were asked of them:

a) whether the prisoners were liable to prosecution under the provisions of the *Offences against the Person Act 1828,* or by any other means, for the murder of all or any of the deceased;

b) whether the evidence was sufficient to lead to their conviction; and

c) whether, under the circumstances, and with reference to whether it might be fit to execute judgement upon them in case of conviction, would they recommend a prosecution? [219]

Execute, in this case, would be just that.

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217 Fitzroy 1839
218 *ADM 1/43*
219 *TS 25/2047/27*

The opinion of the Law Officers arrived on June 2nd, 1835.

> *"The King's Advocate and Attorney and Solicitor General are requested to advise*
>
> *1st Whether these Prisoners are liable to be prosecuted under the provisions of the Act 99.4.C.31.S.7 or by any other means for the murder of all or any and which of the Individuals above stated?*
>
> > *We are of the opinion that under 9 Geo.4.C.31 these prisoners might be prosecuted in England for the murder of all the individuals above mentioned.*
>
> *2nd Whether the evidence will be sufficient to lead to their Conviction?*
>
> > *We think the evidence would be sufficient to warrant a conviction.*
>
> *3rd Whether under the circumstances, and with reference to whether it might be fit to execute judgement upon them in case of a Conviction they would recommend a prosecution?*
>
> > *But under all the circumstances it appears to us that in the case of a conviction the sentence could not fitly be carried into execution & (therefore) we cannot recommend a Prosecution."*

Two questions answered in the affirmative, but not the third. Why? The answer is far simpler than some suggest. In 1835, the only punishment available for the crime of murder was death. British justice was not at all squeamish about execution, but judges were uncomfortable when the only evidence against an accused came from another offender. Someone who had turned King's Evidence to save himself from the hangman. In this case, there were other witnesses, but with limited evidence. McKay had seen Dickson killed by Salazar and Latorre but both were dead. Helsby had seen Ventura shot, but he had refused to travel to England to give evidence. All that the other witnesses could offer was circumstantial evidence. None had seen any fatal blows. That left Luna – the turncoat. The Law Officers conclusion speaks for itself. There was an offence triable under British Criminal Law. With Luna as a witness, there was sufficient evidence to convict. But it would not be 'fit' (equitable) to carry out the single punishment available – hanging.

Without a trial, repatriation was the only option. Godoy died at Plymouth but on July 10th, 1835, Rivero, Flores, Gonzalez, and Luna were transferred to HMS *Swallow*. They arrived in Brazil on September 3rd, 1835. It was then left up to Hamond to decide what to do next.

> *"Nothing whatever is come in shape of instructions relating to the Falkland Islands, but they have sent me back four of the murderers of 1833,... a very slovenly way of doing business,.."* [220]

Hamond sent them to Montevideo where Rivero and the others went ashore on October 28th, 1835. Contrary to modern-day Argentine fiction, the riot at Port Louis in 1833 was not a revolution. Unless it was a revolt against the Confederation. It had been aimed squarely at

220 *Hamond Log September 3, 1835* in *HAM/125 pp.195-196 NMM*

Vernet's Buenos Airean business on Soledad Island.

> *"Don Ventura Pasos was a nephew of the distinguished Argentine Don Juan Jose Pasos who, with Senores Chiclana and Saavedra, formed the Triumvirate which governed in the early part of the emancipation from Spain. .. Don Ventura and my other agents were murdered in Aug 1833 by some Indians ... and some runaway sailors. Don Ventura was one of the principal settlers at Port Louis."* [221]

Rejoinder

As for the alleged 'secret promise' of 1771, London's archive search had been more fruitful than Madrid's. Documents had been recovered. These led to a further legal opinion from Sir Herbert Jenner on November 30th, 1833.

> *"... that the extracts from the correspondence which passed in the years 1771 and 1774, as stated in your Lordship's letter, are so far from warranting the suggestion of M. Moreno that there was any secret understanding that the British Govt. would evacuate the Falkland Islands after the restitution of Port Egmont, that they demonstrate that no such expectation could have been entertained by the Govt. of Spain, for the Spanish Minister, having asked the Earl of Rochford to give him some hopes of the British Govt. agreeing to the mutual abandonment of those islands, he was answered "that it was impossible to enter into that subject with him as the restitution must precede every discourse relative to them." And the instructions given to the officer who was sent to receive the repossession of Port Egmont from the Spanish authorities, not to salute Fort Soledad, as a Spanish Garrison, if the restitution was not made by a certain period, but to protest against that settlement of His Catholic Majesty's subjects, in an Island belonging to His Majesty, are strongly confirmatory of the absence of all idea of compromise, in the assertion and maintenance of HM right to the Sovereignty over those Islands. …"* [222]

Lord Palmerston wrote to Minister Moreno on January 8th, 1834, with a detailed response to the *Memoria and Protest* of June 17, 1833.[223] At the outset, Palmerston reminded the Minister Plenipotentiary of Britain's 1829 protest; the grounds on which it was based and that no response had been forthcoming. No answer. No objection. No counter-protest.

Palmerston also pointed out that; "*the Buenos Ayrean government persisted, notwithstanding the receipt of that protest, in exercising those acts of sovereignty against which the protest was specially directed*". Then he moved on to the events of 1770/71.

> *"The claim of Great Britain to the sovereignty of the Falkland Islands having been unequivocally asserted and maintained, during those discussions with Spain, in 1770 and 1771,*

221 Luis Vernet in *AGN Sala VII, Legajo 130, Documento 54 Page 2*. See also *The Case of Antonio Rivero and Sovereignty over the Falkland Islands* Richard Ware, *Historical Journal 27. v.4 1984.*

222 *FO 83/2227* at *159*

223 *Palmerston to Moreno January 8, 1834* in *FO 6/501*

which nearly led to a war between the two countries, and Spain having deemed it proper to put an end to those discussions, by restoring to his Majesty the places from which British subjects had been expelled, the government of the United Provinces could not reasonably have anticipated that the British Government would permit any other state to exercise a right, as derived from Spain, which Great Britain had denied to Spain herself; and this consideration alone would fully justify his Majesty's Government in declining to enter into any further explanation upon a question which, upwards of half a century ago, was so notoriously and decisively adjusted with another government more immediately concerned."

Spain's 1771 reservation, relied upon as evidence of England's recognition of Spanish rights, was dismissed, quite rightly, because the agreement between Masserano and Rochford had been that Britain should ignore it; "*... the reservation referred to cannot be deemed to possess any substantial weight, inasmuch as no notice whatever is taken of it in the British counter-declaration, which was exchanged against it...*"

Palmerston then dealt with the assertion of a secret promise by enclosing copies of the correspondence from the time. A demonstration that the allegation held no substance.

"M. Moreno will perceive that the above authentic papers, .., contain no allusion whatever to any secret understanding between the two Governments, ... On the contrary, it will be evident to M. Moreno, that their contents afford conclusive inference that no such secret understanding could have existed. … The undersigned trusts, that a perusal of these details will satisfy M. Moreno, that the protest which he has been directed to deliver to the undersigned, against the re-assumption of the sovereignty of the Falkland Islands by his Majesty, has been drawn up under an erroneous impression, … and the undersigned cannot entertain a doubt but that, when the true circumstances of the case shall have been communicated to the knowledge of the government of the united provinces of the Rio de la Plata, that government will no longer call in question the right of sovereignty which has been exercised by his Majesty." [224]

Moreno was anything but satisfied; paying agents to go to Madrid to conduct a search of Spain's archives. They discovered, as Navarrette had, nothing. Palmerston's reply was forwarded to Buenos Aires where it was presented to the House of Representatives. They, peculiarly, interpreted Palmerston's reply as failing to provide a *"decisive answer as to the Falkland Islands..."* [225]

"The Rio de la Plata authorities, who cannot command the obedience of their own continental provinces, and who could never subdue the whole of the continental territory formerly belonging to the Spanish Viceroyalty of the same name, seem extremely disposed to maintain a contest with foreign nations about the most trifling or the most doubtful points of territorial sovereignty... hence they seem disposed to risk the friendship and alliance of Great Britain on the less

224 *CO 78/1*
225 *London Courier & Evening Gazette Monday August 4, 1834*

profitable and more uncertain title to the sovereignty of two almost uninhabited islands near the Tierra del Fuego, while they have not been able to extend their sway to the opposite coast of their own continent. … The object of "the protest," which is as long as Spanish diplomacy could make it, may soon be described, though the dispute to which it refers is of ancient date, and at one time had nearly involved us in a Spanish war. ... We scarcely know whether the subject is worth disputing – but … the arguments of the Buenos Ayres Envoy might be easily answered. We have for more than 60 years considered the Falkland Islands as our own, both by the right of prior discovery and the claim of first occupancy. We asserted that claim against the French in 1765, and we did not surrender it to Spain, which purchased the departure of their French allies. Our rights have hitherto remained as they were in 1774, and surely Buenos Ayres, which derives all its rights through Spain, cannot be allowed to invade a possession which Spain never could prevail upon us formally to abandon."[226]

Minister Moreno submitted a further plea in December 1834, directly to Britain's Prime Minister. For a temporary period of three weeks, that was Wellington. Unable to evidence a secret agreement, Moreno called only for the return of Soledad Island. After posting the letter, he told friends that he felt 'confident'. Acting only as caretaker, Wellington passed the letter on to the Foreign Office. There, it sat on someone's desk until 1837.

"... If the expedition of the "Clio" had limited itself to West Island (port Egmont) it might be said that the Govt. of HBM had reinstated themselves in the status quo which the ancient Convention left. But the expedition of the Clio went to East Island (port Soledad), which never was English, requiring the island's evacuation of the garrison and citizens of another state, & possessed itself of properties & objects of value not belonging to subjects of H.M. This procedure overturns directly the principles recognized in 1771; it transfers to the British flag a territory never before trod by an English foot, with buildings, stock, & (unreadable) *which were the products of the industry of another nation – a nation of the American continent, which under the favour of Providence, that rules the destinies of mankind, has succeeded to the territorial rights of Spain in that jurisdiction & to which are infallibly due the consideration of justice claimed by every independent people. ... Accordingly, the Government of the United Provinces, having reconsidered the subject in all its bearings, finds itself under the necessity of declaring that it cannot acquiesce in the conclusion which the reply of H.E. Viscount Palmerston of the 8th January, 1834 draws from it. It repeats and confirms its Protest of the 17 June 1833 against the sovereignty assumed over the Falkland Islands by the Crown of Great Britain, & begs that the Republic may have restored to it East Island & its establishment in Port Soledad ..."* [227]

226 *Evening Mail Monday September 2, 1833*

227 *Moreno to Wellington December 29, 1834* in *FO6/501*. McBride's foot had definitely trod East Falkland and at Port St. Louis; as had those of English sealers, whalers and the odd Royal Navy crew in the 67 years following January, 1766.

10

Colonization

"I formally landed, under a salute from Her Majesty's ketch Sparrow, was received at the beach with due honours by Lieutenant Tyssen, and proceeded to the Government-house, where the few residents being assembled, I addressed myself to them..." [228]

Just before Luis Vernet departed Puerto Luis for the last time in 1831, he sold a ten-square mile parcel of East Falkland. To William Langdon, for settlement and colonization. Impressed with what he had seen, Langdon hoped to cash in, but, once back in England, he hit a brick wall. The Colonial Department declined to recognise his ownership.

"... His Majesty's Govt. neither recognises the official character of Don Louis Vernet, nor the right of the Government of Buenos Ayres to exercise, or to delegate to any person to exercise, the powers of Government, or any authority whatsoever in the Falkland Islands over which, on the contrary, His Majesty claims, and continues to assert the Rights of Sovereignty... You must act in this matter entirely at your own hazard." [229]

Another believer was George Whitington. He had also seen the long-term potential, so Langdon offered to sell his holding. An ebullient Whitington agreed to buy with Vernet approving the transfer in May 1834. Much to Langdon's relief. Vernet would later describe Whitington as an 'irritant', yet the role he played in the colonization of the Falklands was not inconsequential. Arguing for a new colony, Whitington had an outstanding ability to make himself a nuisance. Seen, in 1834, as a Crown possession, the Falklands were not considered a serious prospect for colonization. There was nothing there to build on. From Port Luis, Lieut. Smith wrote of his fiefdom as consisting of; "*... my own four men, two Englishmen, a Black cook, a German, 3 Gauchos, a Montevidean, three women and two children*." [230]

Consolidation was more important. In June 1834, the Colonial Department noted that before any consideration of the future, Britain needed to affirm and publicise its rights. Until the archipelago was generally accepted as British there was no point in going to the expense of even limited colonization. Spain could yet restate its claim.

Vernet looked on from afar, unsure of his legal position. Or even if he had a position, legal or otherwise. Still in debt, he was constrained. His only support, limited as it was, came from Buenos Aires, although he had resigned his commission as governor in early 1833. Vernet still believed that Argentina would receive compensation. From one, or both, British and US Governments. In this, he hoped to share. At the same time, he also believed that he still owned valuable assets at Puerto Luis. In the houses and the horses. Despite all evidence to the contrary, Vernet still felt that he had a viable business. So he started writing letters. To anyone he thought could help him. A list that included Woodbine Parish, Lieut. Smith,

228 *Lieut. Governor Moody to Lord Stanley March 5, 1842 in Accounts and Papers 1843 vol.4*
229 *Hay to Langdon February 29, 1832* in *CO 78/1/384*
230 *Smith to Seymour April 13, 1834* in *ADM 1/42*

Rear-Admiral Seymour at Rio and then Rear-Admiral Sir Graham Eden Hamond who took over. The latter came to view the German businessman much as Vernet perceived Whitington. Vernet vented his frustration in these letters. Fluctuating between offers to help, pleas for money and demands for compensation. In one letter, Vernet offered to sell the remaining houses at Port Luis to the British. On the next page, he requested a loan of £2,000 for the purchase of new horses, and the charter of a ship to take them. [231] He demanded to be compensated for the use of both horses and houses. To be reimbursed for the right to hunt his wild cattle. Vernet could not grasp that Britain saw him as having no rights. As having been a trespasser in the islands.

During the early period following his arrival in 1834, Lieut. Smith seems to have responded to Vernet's letters. Reassuring him that money from the sale of beef was being 'reserved' on his account. Available once official instructions arrived. One did. Hamond's order of May 1835, required Smith to hand over Vernet's property at the first opportunity. To Vernet or an agent. Less a sum in settlement of outstanding wages. Real money, not promissory paper.

> *"... he is in the position of a man having built upon ground to which he has no title, and that the difficulties under which the settlement has been labouring in consequence of the massacre, are attributable entirely to his or his agents misconduct and breach of faith towards the gauchos, in paying them with paper instead of silver money. ... With regard to his proposal for an advance of £2000 I am of opinion that all the property on the Island (except the Wild Cattle) even if admitted to be his, would be overvalued at half this sum."* [232]

Money was also a concern of Britain's Colonial Department. Less than happy with the bills sent it by the Admiralty, there was some low-key debate about the value of keeping Smith there. However, in light of Moreno's protests, the decision was to maintain a small garrison. Recognition that any withdrawal could be misinterpreted.

> *"... in the present state of the discussion of this Government with Buenos Aires respecting the sovereignty of the Islands, it would be inexpedient to do any act which might wear the appearance of an abandonment of His Majesty's claims, and that in Lord Glenelg's judgement the proposed withdrawal of the Boats crew might have that appearance. Under such circumstances Lord Glenelg considers that for the present, the Detachment of seamen should not only not be withdrawn, but that it should be reinforced ..."* [233]

Issues with Buenos Aires abated after March 1834. General Juan Manuel de Rosas returned as Governor of the Province of Buenos Aires with a grant of dictatorial powers. Rosas had never indicated any great passion for the Falklands and, with his hands full elsewhere, Argentina's claims petered out. Reduced to little more than a paragraph in the annual

231 *Vernet to Hamond December 22, 1834* in *ADM 1/43*
232 *Hamond to Eliot (Admiralty) February 10, 1835* in *ADM 1/43*
233 *Hay to Wood August 10, 1835* in *FO 6/501*

message at the opening of the Legislature. [234] Moreno, his December 1834 protest unanswered, had little incentive to pursue the matter further. Despite that, Britain was more concerned about Spain.

> *"Lord Glenelg is inclined to think, that unless the ancient pretensions of Spain, never admitted by this Country, to the exclusive possession of the Magellanic Regions, have become vested in the Republic by the facts of its transformation from a dependency of the Spanish Monarchy into an Independent State, it might be with the court of Madrid alone that the British Government could properly consent to discuss the question of the Sovereignty of the Falkland Islands."* [235]

Palmerston had no wish to awaken the interest of Spain, so he decided to let the matter drop. A decision often misquoted and misinterpreted as some recognition of an Argentine right. Spain undoubtedly had the better claim to Soledad Island. No point in reminding Madrid of that. A similar decision to 'let sleeping dogs lie' saw US claims of a right of a fishery go unchallenged. Why complicate a situation by attempting to restrict US sealers in their work? British sealers were not complaining. So, while there was no pressure, Britain could afford to wait. Buenos Aires was irrelevant. Time and effective control would see off all challengers. Which left the irritants, Luis Vernet and George Whitington.

While the great and the good deliberated, weighed and concluded, Lieut. Smith did what he could with the little he had at hand. Gauchos hunted the wild cattle using Vernet's few remaining horses. The beef sold to passing ships raised the money needed to pay wages and maintain the houses. However, running a business was not the function of a Residential Naval Officer. So, in answer to Admiralty objections, Smith imported his 16-year-old son to take over. If there were any profits, Vernet did not see them. Frustrated, still in debt and mistaking British lack of action for disinterest, Vernet opted for invasion. Or so it seemed. Two ships, supplies and an armed force provided by General Lavalleja could hardly be considered as anything else. The more-so as at that time (May 1836), Vernet was reassuring Rear-Admiral Hamond that he intended only to send a few horses and 20 gauchos to aid his business. Unfortunately, for the plan, preparations by notorious generals tend to get noticed. A rumour reached Britain's Minister in Buenos Aires, John Henry Mandeville. He summoned Vernet to explain himself.

> *"Mr. Lewis Vernet has been with me to acquaint me that it is his intention to return to the East Falkland Islands to look after what he termed his property, the wild cattle and horses which are upon them, - telling me that he had made a contract with General Lavalleya, a man of some notoriety .., and who is now in this town, by which he engages to furnish him with thirty Gauchos and as many horses for the purpose of catching the wild horses and killing the cattle which are upon the island:- ... should it turn out to be an advantageous concern, it was not at all unlikely, he said, that the General would follow in person to superintend it. I enquired of Mr. Vernet if*

234 *Los Mensajes: Historia del desenvolvimiento de la nacion Argentina redacta cronologicament por sus Gobernantes 1810 – 1910*

235 *Stephen to Strangeways July 28, 1837* in *FO 6/501/238*

he had permission from His Majesty's Government or from the Admiral commanding on the South American Station to go there... because without such permission, I strongly advised him to give up the undertaking, telling him distinctly that I should not sanction it, and should protest against it until I knew that he was authorised to embark upon it." [236]

Mandeville made it plain that, without express permission, Vernet could not return to the island. The Minister then dissuaded Lavalleja from continuing with the venture forcing Vernet to back down. All that had he had achieved was an increase in both his debt and the suspicion with which he was viewed by Britain. On July 31st, 1836, Mandeville reassured London that Vernet had "*given up his project of returning to the Falkland Islands..,*" but he knew too little about the man. Vernet promptly wrote to Hamond with a proposal for the settlement of 'his' lands. Pretensions rejected in August 1836. Never a man to take a hint, Vernet sent letter after letter. Hamond would become so irritated that, two years later, he imposed a ban on Vernet ever returning to Port Luis.

At the end of 1836, a survey was carried out by Capt. George Grey of HMS *Cleopatra*. He reported to the Admiralty that the islands were likely to form a useful base for ships passing to and from the Pacific. But that Port Luis, or Anson as some were then calling it, was not the ideal site for its principal town. HMS *Sparrow* followed with an instruction to bring some order to the sealing trade. Offer what protection it could to vulnerable sealing grounds but without confronting American ships. Palmerston tried to ban all encroachments by foreign citizens, but this earned a terse response. Hamond pointed out that the US not only still claimed fishing rights, but at that time had 29 sealing ships at the archipelago. [237] It was not the time to arouse Washington. Another 17 years would pass before it was.

It was at that time, in June 1838, that George Whitington popped up again. Waving a prospectus promoting the advantages of Falklands colonization, he formed the 'Falkland Islands Commercial Fishery and Agricultural Association'. An attempt to raise both interest and investment. Then, in January 1840, came the 'Colonial Land and Emigration Commission'. A government body formed to encourage immigration to Britain's colonies. The Falklands were not on its list, but Whitington nagged them anyway. Proposing that East Falkland, be made over to his Association. Being a nuisance can work, and this does seem to have motivated the Commission to ask the Foreign Office about its intentions concerning the Falklands. The response was blunt, "... *HM Government do not intend to establish a colony there.*" [238] Whitington was not discouraged. If the Government would not send colonists, he would. A *fait accompli* to be led by his brother, John Bull Whitington. Two ships were purchased, 16 enthusiastic volunteers found, together with 12 sheep, 2 pigs, and supplies.

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236 *Mandeville to Palmerston July 14, 1836* in *FO 6/501*
237 *Hamond to Wood October 30, 1837* in *ADM 1/50*
238 *CO 78/4*

Unaware, in August 1840, the Commission launched its own inquiry into the pros and cons of a Falklands colony.

> *"There appear to be Four Grounds upon which the Establishment of a regular Colony at these Islands has been urged upon the Government. 1) The usefulness of affording to the Merchant Vessels which sail round Cape Horn a Port for Refit and Refreshment. 2) The Expediency of having a British Port placed as it were between the Atlantic and the Pacific Oceans, to which our naval Force on the South American Station could resort. 3) The Peculiar Advantages which the Islands afford for the Establishment of a Penal Colony. 4) their Fitness generally as a Settlement for agricultural and commercial purposes. On the Three first Grounds above stated, we entirely agree as to the Value and Importance of these Islands. On the Fourth, we think that considerable Doubt still rests."* [239]

A month later, Secretary of State for War and the Colonies, Lord John Russell, conceded that limited colonization was a possibility. Without a penal colony. Then in October 1840 the Treasury agreed to pick up the bill. Colonization could begin. Rather faster than Russell or the Treasury knew. At Port Louis, on December 15th, 1840, Residential Naval Officer Lieut. Tyssen was rather taken aback to see *Susan* anchor, and disembark settlers. *Mary Ann* arrived a month later. Tyssen coped as well as anyone could in the circumstances. Without instructions though, he refused to recognise the ten square miles of land claimed by John Bull Whitington on behalf of his brother. However, the arrival of these people may have disturbed those that were already there. Those not of British origin. On January 1st, 1841, Antonina Roxa, Leergen Christian Dettleff, Thomas Rolon and James Anderson swore an oath of allegiance to the Crown. They became British citizens. This they chose to do and so, settler numbers in 1841 reached 42.

With Tyssen's indulgence, Whitington's colonists built a large house in Port Louis. Unfortunately, back in London, George Whitington found that he had another thing in common with Luis Vernet. With no sign of any return on his investment. George Whitington would declare himself bankrupt in June 1843. [240]

His brother had chosen a good site in Port Louis if a little prematurely. George Grey's 1837 report led to the assignment of Lieut. Richard Moody, an engineer, as Lieutenant-Governor at the Falklands. An engineer who could oversee the construction of a new town at a better site. Moody sailed from Gravesend on October 12th, 1841, in the brig Hebe. With him went one sergeant, two corporals, and nine privates, three wives and seven children. One of the privates was a young James Briggs accompanied by his wife, Margaret. Another member of the platoon was Thomas Yates. Their descendants are still there today. Argentina's Minister Moreno, silent on the subject for 7 years, saw the appointment of a governor as a cause for protest. Submitted on December 18th, 1842.

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239 *Sessional Papers of the House of Lords 1841*
240 *Accounts & Papers: Thirty Two Volumes 2 February - 24 August 1843* Vol.33 p.3

"., calling to His Lordship's memory the discussion pending between the Govt. of the United Provinces, and that of Her Britannic Majesty respecting the sovereignty of the "Islas Malvinas" denominated by the English the Falkland Islands ... it may be permitted to the Undersigned to state summarily that the spoliation of which the United Provinces complain, refers: 1st. To the sovereignty and dominion of the Malvina Islands, particularly the Eastern Island, or Soledad, and Port Luis; 2ndly. To the legal, bonâ fide, and peaceable possession enjoyed by them for more than half a century of the said Eastern Island, or Soledad, and Port Luis; two points which it is of consequence to avoid confounding, as the complete possession, evidently protected by the best titles and most just right (that is, the purchase from France by a public and well-known contract, the subsequent colonization and cultivation, and, finally, the creation and collection on the spot of property, buildings, and cattle) must give to the United Provinces an incontrovertible right to an immediate and equitable compensation. ..."

Moreno still confused the rights of Spain with those claimed by the Argentine Confederation. To Spanish eyes, Argentina remained a colony. Its independence unrecognised by Madrid. Indeed, not recognised as a State by any European nation. It would be 1863 before Spain accepted Argentina as being independent. 1863 was also the year that a Spanish Admiral arrived in Berkeley Sound and insisted on saluting the British ensign. Ambassador Moreno may also have been reacting to news from Washington, where further attempts to obtain compensation for the 1831 *Lexington* raid were going badly. Rosas was short of cash. Argentina had defaulted on an 1824 loan which, with interest, had grown to 9,500,000 pesos (£1,900,000) by 1841. Rosas was hoping that compensation from the US would ease the pressure on his treasury. Washington's response was an emphatic no. US-Argentine diplomatic relations were restored, however, a decade after Baylies cut them short.

"The right of the Argentine Government to jurisdiction ... being contested by another power and upon grounds of claim long antecedent to the acts of Captain Duncan ... it is conceived that the United States ought not, until the controversy upon the subject between those two Governments shall be settled, to give a final answer ..." [241]

Foreign Secretary, Lord Aberdeen, rejected Moreno's protest on February 15th, 1842. He reaffirmed that Britain considered the 1771 Anglo-Spanish Convention as conclusive.

"... an arrangement which had been concluded forty years before the period from which Buenos Ayres dated its separation from the mother country; and an arrangement which Great Britain had ever since regarded as definitive, upon the question of her right to exercise sovereignty over the Falkland Islands, which right Spain herself had never evinced a disposition to disturb or call into question;..." [242]

241 *Quoted in A Digest of the International Law of the United States, taken from documents issued by Presidents and Secretaries of State and from Decisions of Federal Courts and Opinions of Attorneys-General* F. Wharton 1887 vol.1 p.65

242 Original draft in *FO 6/502/26*

Ever hopeful that evidence of a secret agreement with Spain would turn up, Moreno once again paid agents to search Madrid's archives. They were no more successful in 1842 than they had been in 1834. Moreno responded to Aberdeen on February 19th, claiming that his 'proofs' were 'incontestable.' Writing again on March 10th, Moreno declared that any silence on his part should not be construed as acquiescence. [243] Somewhat disingenuous as silence on a question of sovereignty was always construed as acceptance. Aberdeen did not respond or otherwise recognise Moreno's statement, but informed Mandeville in Buenos Aires that Britain considered the discussion to be at an end. [244] That same month, Lieut.-Governor Moody wrote to recommend the site of a new town at Port William. An opinion confirmed by Capt. James Clark Ross and Capt. Crozier from the *Terror* and *Erebus* expedition who had helped with the survey. Much to John Bull Whitington's annoyance in Port Luis. Finally convinced that a small colony was viable, the government placed the necessary legislation before Parliament in April 1843. The London Gazette publishing the Letters Patent on June 23rd. Moody's reward was a promotion to Governor and Commander in Chief.

> *"Whereas divers of Her Majesty's subjects have resorted to and taken up their abode and may hereafter resort to and take up their abode … on the Falkland Islands: and whereas it is necessary that Her Majesty should be enabled to make further and better provision for the civil Government of the said settlements: be it therefore enacted, by the Queen's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, that it shall be lawful for Her Majesty, by any order or orders to be by Her made, with the advice of Her Privy Council, to establish all such laws, institutions, and ordinances, and to constitute such courts and officers, and to make such provisions and regulations for the proceedings in such courts, and for the administration of justice, as may be necessary for the peace, order, and good governance of Her Majesty's subjects and others within the said present or future settlements respectively..."* [245]

William Fishbourne was appointed magistrate in early 1844. *Executive* and *Legislative Councils* created in 1845. A census in October 1846 listed Antonina Roxa and Gregoria Parry as still resident. The latter the last of those indentured slaves removed to the islands by Vernet in July 1828. [246] The new town was named Stanley in 1845.

> *"The lands in the Falkland Islands are now for sale... The price of country lands is, for the present, 8s per acre. Town lots of half an acre each, and suburban lots of fifty acres each, will be put up at £50..... depositors will be entitled to nominate for a free passage for six, instead of four, adult labourers for every £100 deposited."* [247]

243 Original in *FO 6/502/98*. Translation at *6/502/100*
244 *FO 6/502/104*
245 *6 Vict.c.13* of April 11, 1843 in *The London Gazette No. 20213*
246 Carmalita Penny had committed suicide in October, 1844.
247 *The Courier, Holbart July 17th, 1847*

Life on the islands was not easy, but then making a living off the land never was straightforward in the mid-19th century. Wild cattle remained, although decreasing in number. Many had been tamed, something Antonina Roxa was much regarded for, and sealing was still possible. Although, again, numbers were down and sealers were inclined to hunt further south. Making the new colony self-supporting was not going to be easy.

> *"It is said that our colonies are a benefit to the mother country. I can only wish that the colonies would prove and establish the assertion by paying their own expenses. Speaking in round numbers, we have a grant of about £,5,000 for the Falkland Islands, and for the fee simple of which, no merchant or stock broker in London would give a quarter of that amount."* [248]

In fact, there was such a merchant. Samuel Fisher Lafone was a one-time associate of Luis Vernet and resident of Montevideo. An earlier attempt by Vernet to interest Lafone in picking up his cattle business on Soledad had led to a fall out. Lafone's interest was renewed though, when Moody advertised for gauchos from Montevideo. In January 1844, Lafone sent out an agent, Marcelino Martinez, to take a look before offering to take on the cattle business. With the interior of the islands poorly mapped, negotiations proved protracted. Finally, in March 1846, an agreement was reached.

> *"Her Majesty Queen Victoria sells to Lafone that part of East Falkland lying south of the isthmus in Choiseul Sound, Also the islands in Choiseul Sound, and all other islands adjacent to the coast purchased; also Beauchene Island; also one town allotment of half an acre, and one suburban allotment of twenty-five acres in the principal town. For six years and six months from this date, Lafone to have absolute dominion over all wild cattle, horses, sheep, goats, and swine on east Falkland. 3d. For the above advantages, Lafone is to pay her said Majesty Queen Victoria, £,60,000 by instalments..."* [249]

However, Moody was dismayed as these terms gave Lafone a monopoly on East Falkland. Lafone, who never visited the islands, also ended up less than pleased, on discovering that the acreage he thought he was getting had been hugely over-estimated. As had the number of wild cattle. Less happy than either Moody or Lafone, was Luis Vernet. He claimed that his rights had been 'usurped.'

> *"(The) Government has sold a part of my lands and all the wild cattle, estimated in the Parliamentary papers of 1841 and 1842 at 40,000 head,... and refuses to give me compensation for this property of mine, property which I have shown in my memorials, and will again show, is legitimately MINE."* [250]

248 *Bell's New Weekly Messenger Sunday September 24, 1843*

249 *CO 78/43*

250 *Letters from MLV to the Right Hon. Lord Stanley, Secretary of State for the Colonies, Concerning his Claims on the British Government, and the Neglect of the Colony of the Falkland Islands* 1858 Luis Vernet 1858

Lafone's contractual obligations required that he return his workforce to Montevideo when their employment ended. But his managers were tardy when it came to repatriation, causing a problem for Moody, who vented his frustrations by becoming obstructive. Relations deteriorated further when questions about the land area went to the lawyers. Litigation extended into the 1850s. Lafone did meet one contractual obligation which was to send out settlers. On May 10th, 1847, *Napoleon* arrived with 12 Argentine gauchos, four women and one child. Followed by *Vigilante,* carrying 14 gauchos and four boys together with 30 settlers from Spain and 24 from Uruguay.

Richard Moody returned to England in July 1848; replaced by George Rennie.

> *"In 1848, when a new governor was appointed, sixty houses had been erected at Port Stanley, besides the establishment of Mr. Lafone in the southern peninsula, and a small farm of sheep and cattle, belonging to Mr. Whitington, at the old settlement of Port Louis. The entire population numbered from 300 to 400 souls."* [251]

1848 was also notable for an agreement. Spain's revolted colonies sent representatives to Lima in an attempt to come to some arrangement about their borders. In most cases poorly defined during Spain's colonial period. On February 8th, 1848, the result was a general recognition that the Spanish boundaries, as they stood in 1810, should remain the accepted dividing lines between the new South American States. 1810 seen as the last year in which Spanish rule had been unchallenged. This guideline would become known as *uti possidetis juris of 1810*. Where there was disagreement, arbitration was to be the chosen method of resolution. Britain and the USA sent observers, and the general feeling was that the outcome made some sense. But then, none of the nations that signed went on to ratify the accord. Some, such as the Argentine Confederation declined to sign. Only the month before, General Rosas had protested to Austria over its recognition of Paraguay as an independent State. Despite that old province of the Viceroyalty having declared itself independent in 1811. Four years before the United Provinces. So, in 1848, Rosas still hoped to reconstitute the Viceroyalty. To take back both Paraguay and Montevideo.

His attempt to achieve this by controlling the rivers that offered a route to Paraguay led to a confrontation with France and Britain. Not a war as such. More a physical protest over the protectionist policies of Buenos Aires. This resulted in the two European nations blockading the Rio de la Plata from 1845. A rather half-hearted affair, where Britain felt obligated to support France as an ally. Not particularly relevant to the history of the Falklands either, other than with its conclusion. Seeking a means to disentangle itself, Britain sent negotiators. Never an easy man, Rosas was not much of one for compromise.

> *"... we learn that the hopes of a speedy termination of the long-continued and barbarous warfare by which the Argentine territories have been desolated, are likely to prove fallacious. It is stated that Rosas, ... now insists upon a pecuniary indemnity of four million of dollars from the*

251 *British Packet & Argentine News December 29, 1849*

French and English Governments before he will treat with them; and some private accounts state, that to this insolent demand he has added an even more outrageous one, namely, the cession of the Falkland islands by England!..." [252]

Southern – Arana Treaty

In July 1848, Genera Rosas signalled that his terms would included;

a) the return of an Argentine squadron captured by the Royal Navy;

b) payment of compensation for Argentine losses and

c) that the Falklands be "*restored*" to the Argentine Confederation. [253]

Dictatorial powers had been granted to Rosas by the Argentine Confederation. He held power. Negotiations then, were between the British Government and Rosas, the man. What passed for government in the Confederation had very little say. Not that the British Parliament was kept informed. With no accurate information, the Commons was reliant upon conjecture and the occasional leak. It was against that background that, on July 25th, 1848, a colonialist reformer MP, Sir William Molesworth, gave a speech. His subject was the cost of colonialism. Molesworth argued that during the seven previous years, Britain had spent £35,000 on the Falklands station. In his view, it would have been cheaper to recognise the "*claim*" of Buenos Aires. The word he used was 'claim,' not 'right'. Once again, this painfully thin straw is often grasped to show that Britain knew about Argentine rights. Not so. Individual MPs represent their constituency. Not Government.

On October 5th, 1848, the British negotiator, Henry Southern, arrived in Buenos Aires. He was not recognised in any official capacity by Rosas, who was adamant that there could be no restoration of diplomatic relations before a treaty was agreed. So talks took place on a personal level between Southern and Rosas. Proceeding very much at the General's pace.

"… (he) has an immense idea of his own importance. He returned to His original argument: that it would be dishonorable for Him and to the Confederation, if after all that has passed, He did not terminate on a convention of peace..." [254]

Rosas made it clear that he would not accept an accommodation. Only a full peace treaty would do, with all the pomp and paraphernalia that went with that. Rosas wanted to be seen as the man that had reduced two European powers to his will. He was still required to observe the niceties though. So, at the opening of the provincial Legislature on December 27th, 1848, Rosas sent his message. A Buenos Airean 'State of the Union' address.

252 *Perthshire Advertiser Thursday August 19, 1847*
253 *Hood to Palmerston July 21, 1848* in *FO 6/140*
254 *Southern to Palmerston October 14, 1848 FO 6/139*

"... (the British) Government persists in the detention of the Malvinas Islands and of another portion of territory belonging to the Argentine Confederation, in all these in grave breaches by the Government of his Majesty, of the rules of international justice and the provisions of the treaty of February 2, 1825 between the Confederation and Great Britain..." [255]

What was said in public was very different from the private conversations. Despite the rhetoric, discussions were amiable with Southern employing just the right amount of flattery. As a result, Britain's negotiator was able to deflect some of the General's more extreme demands. Such as the reincorporation of the eastern bank (Banda Oriental/Uruguay) into the Confederation. Against its will. It took months, but Southern finally got Rosas to put his demands into writing. These went to London, where they arrived in May 1849. In June, Southern wrote to Palmerston addressing the question of the Falklands. Southern reported that, contrary to the vitriol in the annual messages, Rosas appeared to have very little interest in the archipelago.

"*It is a farce like so many others, which he thinks it wise to keep up. In none of the very many conversations we have had on all subjects has he ever alluded to the Falkland Islands.*" [256]

If Britain's MPs were reliant on newspaper reports, so was the Confederation's Ambassador, Minister Moreno. During one House of Commons debate, held on July 27th, 1849, a question was asked about rumours of a continuing Falklands claim by Argentina. Was it true? This appeared in a few newspapers. As described in the press, Palmerston's reply referred to historical Anglo-Argentine talks having ceased due to acquiescence. No two newspaper reports were exactly the same though, so Moreno sought clarification.

"Lord Palmerston said, that a claim had been made many years ago, on the part of Buenos Ayres, to the Falkland Islands, and had been resisted by the British Government. Great Britain had always disputed and denied the claim of Spain to the Falkland Islands, and she was not therefore willing to yield to Buenos Ayres what had been refused to Spain. 10 or 12 years ago (sic) *the Falkland Islands, having been unoccupied for some time, were taken possession of by Great Britain, and a settlement had ever since been maintained there; and he thought it would be most unadvisable* (sic) *to revive a correspondence which had ceased by the acquiescence of one party and the maintenance of the other."* [257]

On July 31st, Argentina's Ambassador submitted a new protest referring to 1842.

"I take the liberty of reminding Y.E. that the Government of Buenos Aires and Confederation of Argentina has never consented to the deprivation of its sovereignty over the Falkland Islands effected by the English Government in the year 1833; … if for some time past the correspondence has not been so active, this is owing to the circumstance that the discussion is

255 *Los mensajes, Historia del desenvolvimiento de la nacion argentina, redactada cronologicamente por sus gobernantes, 1810-1910* vol.2 p.193

256 *Southern to Palmerston June 13, 1849* in *FO 6/502*

257 *Evening Mail Monday July 30, 1849 p.1*

nearly exhausted, and to the state of relations since the intervention. But H.E. Viscount Palmerston, in his great wisdom, cannot confound the intermission of a correspondence with a consent tacit or expressed or with an acquiescence, which has never in any manner been shewn by the Argentine Government in the acts of H.B.M.'s Government in this affair." [258]

At a delicate stage in the negotiation with Rosas, Palmerston's response of August 8th, 1849, was, at best, ambiguous. At worst, he said nothing other than that Britain recognised that Buenos Aires had not 'consented' in any way to Onslow's 1833 action.

"I have the honour to acknowledge the receipt of your note of the 31st of July, stating that the Reply which I was reported by some of the London Newspapers to have made to a question put to me by Mr. Baillie in the House of Commons on the 27th of July, did not correctly describe the State of the question between the British Government and the Government of Buenos Aires respecting the Falkland Islands; and I have the honour to acquaint you that whatever the Newspapers may have represented me as having said on the occasion above referred to, I have always understood the matter in question to stand exactly in the way described by you in your letter."

On Palmerston's desk was the basis of a peace treaty. The last thing that he needed was an antagonistic report from Moreno upsetting Rosas. It was Britain that considered the question closed, not Argentina. Lord Palmerston did not identify which, if any, of the newspapers had provided an accurate report of his Commons reply. Unfortunately, Hansard was missing on the day in question so there is no official record.

Four weeks later, Palmerston was able to confirm to Southern that Queen Victoria had consented to a treaty with Rosas. Once that news reached Buenos Aires, Henry Southern and the Confederation's Foreign Minister, Felipe Arana, signed the '*Convention for re-establishing the perfect Relations of Friendship between Her Britannic Majesty and the Argentine Confederation*.' Also known as the 'Convención de Paz' or the Southern-Arana' Treaty of November 24th, 1849. Peace restored. All issues resolved.

What was left of the Argentine squadron seized by the Royal Navy would be returned, but two items from Rosas's original demands were notably missing. No mention of compensation. No mention of the Falklands.

Rosas attempted to return to these in a meeting with Southern on December 10th, 1849. Insisting that the questions had merely been deferred. Southern, however, was adamant. To return to those subjects would require reopening the whole negotiation. Rosas, believing that his problems with Britain were drawing to a close, had already begun looking elsewhere. Redirecting his energies, and forces, to attack Paraguay. The tables were turned. Rosas suddenly needed a peace treaty more than the British. It was not impossible to re-open the unratified treaty, but there would be a delay and the outcome could not be foreseen. Restarting talks would also involve some loss of face. So, Rosas backed down;

258 *FO 6/502/279*. Translation at 282

agreeing to submit the treaty to a National Congress for ratification. On December 11th, Southern wrote to Rosas to confirm Britain's perception that the treaty had terminated all differences. In responding, Rosas did not dispute that view.

On December 27th, 1849, the General presented his annual message at the opening of the Legislature. He did mention the Falklands, but only in muted terms, and for the last time.

> *"The Government pays serious attention to the outstanding claims of the Republic to Great Britain, for the unjustifiable detention of the Malvinas Islands."* [259]

Then on January 4th, 1850, Argentina's Chamber of Deputies authorised ratification of the treaty. That evening, Southern was received as British Minister to the Argentine Confederation. Britain's ratification arrived in early May, allowing an exchange on May 15th, 1850.

Rosas's failure to pursue either compensation or the Falklands question during treaty negotiations has been the cause of some consternation among Argentine historians. His reasoning remains unclear. The effect is not. Argentina's claim to the Falklands, raised for the first time in 1829, was abandoned. Quietly. In 1850. If there was a quid pro quo, it was that, for the first time, Britain recognised Argentina as a *de jure* (legal) State.

> *Art. V. Her Britannic Majesty's Government having declared "that it is freely acknowledged and admitted that the Argentine Republic is in the unquestioned enjoyment and exercise of every right, whether of peace or war, possessed by any independent nation; ..."*

From 1850, a state of harmony existed between Britain and Argentina on the question of Falklands sovereignty. For a while at least.

259 *Los mensajes, Historia del desenvolvimiento de la nacion argentina, redactada cronologicamente por sus gobernantes, 1810-1910* vol.2

Conclusion

"All peoples have the right to self-determination; by virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development." [260]

1964 was an important year for decolonization. A time when the United Nations sought a way to approach the questions of both decolonization and self-determination. The latter declared a human right in 1960. The decolonization process had begun in 1946; inextricably tied to the concept of self-determination of peoples. UN members had been asked to identify their colonies. The territories that they controlled. Few responded. China, for example, did not consider Tibet to be a colony, despite all evidence to the contrary. Russia made no mention of its satellites. Argentina failed to list Patagonia, colonized in the 1860s. They were not alone, but those that declined to answer were not challenged. The UN was not strong enough. By not doing so, the Organisation failed in a duty to those millions subjected to foreign control. So, from the outset, the decolonization process was flawed. From those nations prepared to be honest, came a list of 74 territories. Deemed to be non-self-governing by their administering States. Britain's list included the Falkland Islands. At the UN, it would be the British Empire that came in for particular attack. An opportunity to diminish Britain's power and influence around the world.

It was against this background, on September 9th, 1964, in New York, that Argentina's representative stood up in front of subcommittee III of the UN's Decolonization Committee. José María Ruda, presented an erroneous, biased and distorted version of the archipelago's history. His sole purpose was to re-establish an Argentine claim to the Falklands. The claim abandoned by Rosas in 1850. Anti-British feeling had kept Britain off sub-committee III while Argentine supporters packed it; including a biased Chair. The outcome was predetermined. Ruda's version accepted without serious challenge. Britain's envoy, ill-informed, was not up to the job of refuting Ruda's partial view of history.

It seems opportune then, to take the true history of the islands, as laid out in this work, and set it against Ruda's case. 1964 seems a long time ago, but Ruda's main points remain the basis of Argentina's claim today. These can be summarised as:

1. Spain discovered the archipelago
2. England admitted that it had no right in 1748
3. it was clear from the 1771 accord that England accepted the sovereignty of Spain
4. when the British left in 1774, the lead plate only claimed one Island
5. Port Egmont was destroyed in 1777, with the full knowledge of Britain

260 *UN Resolution 1514 1960*

6. the *Nootka Sound* agreement limited British rights in the South Seas
7. the rights held by Spain had been inherited by the Argentine Republic in 1810
8. David Jewett applied Argentine fishing regulations in the Islands
9. Buenos Aires appointed Don Pablo Areguati as its first Governor in 1823
10. the 1825 treaty had contained no reservation by Britain concerning the islands
11. Vernet's first expedition was *'partially successful'*
12. the Lexington attacked Puerto Louis under a French flag
13. Britain and America conspired together
14. Britain expelled *'almost all'* the Argentine settlers in 1833
15. Argentina had protested continually since 1833

Ruda's falsehoods have become a kind of mantra among Argentines. The subject of nationalistic propaganda from cradle to grave. "*Malvinas Argentinas*" (Falklands are Argentine) remains the rallying cry at every political meeting or election. No Argentine politician dare deny it. Nor even question the doctrines that have taken on the form of a religion – Malvinism. Belief is all, facts irrelevant. Argentina's pretensions are imprescriptible (unaffected by time). Unarguable. Reality is of no account. However, the real history can also be summarised.

1. the only certain discovery of the archipelago was by Englishman John Davis in 1592. Followed the year after by Richard Hawkins, another Englishman. Other claims, hypotheses and conspiratorial theories as to an earlier discovery remain unproven
2. Britain maintained its claims to sovereignty over the Falklands in, and after, 1748
3. following the 1771 convention Spain removed its signs of sovereignty from the western islands. Never again attempting to replace them. Excepting times of war, only employing covert measures against Fort George, Jasons Town and the resorts of sealers and whalers in the western islands
4. when Britain recalled its garrison in 1774, the lead plate left by Clayton as a sign of sovereignty may only have claimed one Island. This depends upon interpretation although a review in 1789 suggests that Britain still viewed its claim as covering the whole archipelago
5. as a body of water, Port Egmont was incapable of being destroyed although orders issued in 1777 called for the covert destruction of sealers' equipment. Fort George and Jasons Town were razed in 1780 at a time of war and in an act of war. Britain remained unaware of that covert raid well into the 19th century

6. the *Nootka Sound* convention limited Spanish pretensions throughout the Americas. The rights of other nations, including Britain, to any unoccupied territory, were recognised. So were specific fishing rights for Britain along the coasts of South America. Nootka's application to the Falklands is moot. The archipelago not generally considered as 'adjacent' to the continent
7. territorial rights held by Spain were not automatically inherited by any of its revolted colonies. No South American nation ratified the *uti possidetis of 1810* accord arising from the Congress of Lima in 1848
8. David Jewett did not apply Argentine fishing regulations in the Falkland Islands between October 1820 and April 1821. Nothing he did at Puerto Soledad was officially recognised or adopted by the United Provinces
9. Buenos Aires may have appointed Don Pablo Areguati as *comandante* in the Island of Soledad in 1824 but, if so, the title was never gazetted or bestowed upon him
10. the 1825 treaty was informed by the details provided. These did not identify the Falklands as UP territory. The treaty contained no recognition of the UP's *de jure* existence
11. Schofield's first expedition in 1824 was an unmitigated disaster.
12. *Lexington* sailed into Puerto Louis under a French flag; that being the nation that the ship's commander perceived as the owner of the port
13. British and American envoys conversed. However, Britain's Minister remained aloof from the fall-out following *Lexington*'s raid; delaying a protest until the US envoy had left
14. Britain expelled a trespassing garrison from Buenos Aires in 1833 which had received two written warnings but ignored both. Four settlers chose to leave.
15. Argentina protested in 1833, 1834, 1841, 1849. Then continuously after 1945

In the introduction to this work, a question was asked. How did the 1982 war come about? This book provides the answer, dealing, as it does, with the foundations of Argentina's frustrations. Grievances that led, via Ruda in 1964, through a series of UN Resolutions, to a realisation that the UN was not going to resolve anything. Not without a crisis. Prevention of conflagrations between nations was, after all, the UN's very *raison d'être*. So, in the hope that in the settlement of an emergency, a verdict would go in its favour; Argentina gave the UN a war.

"... defeated warriors go to war first and then seek to win." [261]

261 Sun Tzu

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